

EXHIBIT H

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SELENA STALEY, VIVIAN HOLMES, and
OLIVE IVEY, on behalf of themselves
and all others similarly situated,

Plaintiffs, Case No.
22-CV-6781

vs.

FSR INTERNATIONAL HOTEL INC. d/b/a
FOUR SEASONS HOTELS AND RESORTS,
HOTEL 57 SERVICES, LLC, HOTEL 57, LLC,
TY WARNER HOTELS & RESORTS, LLC, and
H. TY WARNER,

Defendants.

-----X

DEPOSITION OF VIVIAN HOLMES

New York, New York

Thursday, March 30, 2023

Reported by:
Frank J. Bas, RPR, CRR
Job No. 224130

<p>Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4 March 30, 2023</p> <p>5 10:05 a.m.</p> <p>6</p> <p>7 Deposition of VIVIAN HOLMES, held at</p> <p>8 the offices of Freeborn & Peters, 1155 Avenue</p> <p>9 of the Americas, New York, New York, before</p> <p>10 Frank J. Bas, a Registered Professional</p> <p>11 Reporter, Certified Realtime Reporter, and</p> <p>12 Notary Public of the State of New York.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 Brustein Law PLLC</p> <p>5 Attorneys for Plaintiffs</p> <p>6 299 Broadway</p> <p>7 New York, New York 10007</p> <p>8 BY: EVAN BRUSTEIN, ESQ.</p> <p>9</p> <p>10 Risman & Risman, P.C.</p> <p>11 299 Broadway</p> <p>12 New York, New York 10007</p> <p>13 BY: MAYA RISMAN, ESQ.</p> <p>14</p> <p>15 Stokes Wagner, ALC</p> <p>16 Attorneys for FSR</p> <p>17 International Hotels, Inc.</p> <p>18 903 Hanshaw Road</p> <p>19 Ithaca, New York 14850</p> <p>20 BY: PAUL WAGNER, ESQ. (Via Zoom)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 4</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 Freeborn & Peters LLP</p> <p>5 Attorneys for Warner Defendants</p> <p>6 311 South Wacker Drive</p> <p>7 Chicago, Illinois 60606</p> <p>8 BY: JAMES BOLAND, ESQ.</p> <p>9 KATHRYN LUNDY, ESQ.</p> <p>10 MARC ZIMMERMAN, ESQ.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 - o0o -</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BOLAND: Jim Boland,</p> <p>3 Freeborn & Peters, on behalf of the</p> <p>4 Warner defendants.</p> <p>5 ATTORNEY LUNDY: Kathryn Lundy of</p> <p>6 Freeborn & Peters also on behalf of the</p> <p>7 Warner defendants.</p> <p>8 ATTORNEY ZIMMERMAN: Marc</p> <p>9 Zimmerman, with a C, also on behalf of</p> <p>10 the Warner defendants.</p> <p>11 ATTORNEY BRUSTEIN: Evan Brustein,</p> <p>12 Brustein Law, on behalf of plaintiff</p> <p>13 Vivian Holmes.</p> <p>14 ATTORNEY WAGNER: Paul Wagner from</p> <p>15 Stokes Wagner appearing by Zoom on</p> <p>16 behalf of FSR International Hotels, Inc.</p> <p>17 ---</p> <p>18</p> <p>19 VIVIAN HOLMES,</p> <p>20 called as a witness, having been first duly</p> <p>21 sworn by a Notary Public, was examined and</p> <p>22 testified</p> <p>23 as follows:</p> <p>24 EXAMINATION BY</p> <p>25 ATTORNEY BOLAND:</p>

<p>Page 6</p> <p>1 V. HOLMES</p> <p>2 Q. Good morning, Ms. Holmes. My name</p> <p>3 is Jim Boland. I represent the Warner</p> <p>4 defendants. Could you please just state your</p> <p>5 name fully and spell your last name for the</p> <p>6 record?</p> <p>7 A. Yes. It's Vivian Holmes,</p> <p>8 H-o-l-m-e-s.</p> <p>9 Q. You understand, Ms. Holmes, you've</p> <p>10 just been put under oath?</p> <p>11 A. Yes.</p> <p>12 Q. You understand that you are sworn</p> <p>13 to tell the truth, right?</p> <p>14 A. Yes.</p> <p>15 Q. You understand that penalty of</p> <p>16 perjury applies just as if we were in a court</p> <p>17 or trial?</p> <p>18 A. Yes.</p> <p>19 Q. During the course of the day do you</p> <p>20 agree to tell me if I ask you a question that</p> <p>21 you don't understand?</p> <p>22 A. Yes.</p> <p>23 Q. Do you agree to tell me, if you</p> <p>24 have any questions about what I am asking you?</p> <p>25 A. Yes.</p>	<p>Page 7</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. Is there any reason why you</p> <p>3 can't give full and complete testimony today,</p> <p>4 ma'am?</p> <p>5 A. No.</p> <p>6 Q. Are you represented by counsel</p> <p>7 today?</p> <p>8 A. Yes.</p> <p>9 Q. Is that Mr. Brustein?</p> <p>10 A. That is correct.</p> <p>11 Q. Okay. From time to time he may</p> <p>12 make objections to my questions for the</p> <p>13 record. I would ask that once he finishes,</p> <p>14 unless he instructs you not to answer, you</p> <p>15 answer my questions. Okay?</p> <p>16 A. Yes.</p> <p>17 Q. All right.</p> <p>18 ATTORNEY BOLAND: Let's make use of</p> <p>19 the trees I killed. Evan, I am going to</p> <p>20 mark these things 1 through whatever. I</p> <p>21 would propose we just mark all of the</p> <p>22 exhibits consecutively, but that's</p> <p>23 totally up to you. In other words,</p> <p>24 we'll go through 50, if you were to</p> <p>25 start tomorrow you would start at 51 and</p>
<p>Page 8</p> <p>1 V. HOLMES</p> <p>2 then the next deposition would start at</p> <p>3 another. You can think about that. If</p> <p>4 you want to do it differently, we can</p> <p>5 put a DX in front of this later.</p> <p>6 ATTORNEY BRUSTEIN: That's fine.</p> <p>7 Thank you.</p> <p>8 ATTORNEY BOLAND: Take your time.</p> <p>9 I just was making the proposal.</p> <p>10 (Defendants' Exhibit 1, Amended</p> <p>11 Notice of Deposition was marked for</p> <p>12 identification).</p> <p>13 Q. Ms. Holmes, I have handed you what</p> <p>14 has been marked as exhibit 1, which for the</p> <p>15 record --</p> <p>16 A. I'll get my glasses.</p> <p>17 Q. Okay.</p> <p>18 (Pause in proceedings.)</p> <p>19 Q. Good to you go?</p> <p>20 A. Yes.</p> <p>21 Q. I have handed you what has been</p> <p>22 marked 1, which is a document entitled Amended</p> <p>23 Notice of Deposition. My first question,</p> <p>24 Ms. Holmes, have you ever seen this before?</p> <p>25 A. Yes, I have.</p>	<p>Page 9</p> <p>1 V. HOLMES</p> <p>2 Q. When?</p> <p>3 A. When it was sent to me a few weeks</p> <p>4 ago.</p> <p>5 Q. Well, okay. A few weeks ago. And</p> <p>6 this is for your deposition to take place</p> <p>7 today, March 30, 2023, right?</p> <p>8 A. Yes.</p> <p>9 Q. And you will see on the second page</p> <p>10 this was actually dated March 27, 2023?</p> <p>11 A. Mm-hmm.</p> <p>12 Q. Did you see a prior notice of</p> <p>13 deposition? And I'm not going to try and fool</p> <p>14 you, I am going to mark it. Have you seen the</p> <p>15 amended notice that I just put in front of</p> <p>16 you?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And you think you saw it a</p> <p>19 few weeks ago?</p> <p>20 A. No.</p> <p>21 Q. Okay. You saw it recently?</p> <p>22 A. Yes.</p> <p>23 Q. When was that?</p> <p>24 A. I think Thursday of last week?</p> <p>25 Wednesday or Thursday of last week.</p>

<p style="text-align: right;">Page 10</p> <p>1 V. HOLMES</p> <p>2 Q. Okay.</p> <p>3 (Defendants' Exhibit 2, amended</p> <p>4 notice was marked for identification).</p> <p>5 Q. Ms. Holmes I'm handing you what has</p> <p>6 been marked as exhibit 2, which for the record</p> <p>7 is a document entitled -- no, it doesn't have</p> <p>8 a title. It just says: Please take notice</p> <p>9 that defendants Hotel 57 Services, and it goes</p> <p>10 on, will take the deposition of you, correct,</p> <p>11 in the first paragraph?</p> <p>12 A. Mm-hmm.</p> <p>13 Q. You have to say yes or no, ma'am.</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And you recognize your</p> <p>16 deposition was originally scheduled for a few</p> <p>17 weeks ago and then continued until today,</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And this deposition notice</p> <p>21 you'll see on the second page, ma'am, is dated</p> <p>22 February 21, 2023?</p> <p>23 A. Yes.</p> <p>24 Q. Have you seen the first notice of</p> <p>25 deposition before?</p>	<p style="text-align: right;">Page 11</p> <p>1 V. HOLMES</p> <p>2 A. I was told by Evan.</p> <p>3 Q. That you were going to be deposed?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. When were you told by Evan</p> <p>6 that you were going to be deposed?</p> <p>7 ATTORNEY BRUSTEIN: Objection. Do</p> <p>8 not answer. Please don't comment on</p> <p>9 attorney-client communication.</p> <p>10 ATTORNEY BOLAND: I don't think</p> <p>11 that's for the purposes of giving legal</p> <p>12 advice.</p> <p>13 Q. Are you going to rely on your</p> <p>14 counsel's instruction and not answer the</p> <p>15 question?</p> <p>16 A. Yes.</p> <p>17 Q. Okay.</p> <p>18 (Ms. Risman enters).</p> <p>19 Q. Putting aside when you were told by</p> <p>20 Mr. Brustein that you were going to be</p> <p>21 deposed, for how long have you known you were</p> <p>22 going to be deposed? In other words, from</p> <p>23 today going back, how many weeks?</p> <p>24 A. About four weeks.</p> <p>25 Q. About four weeks? Okay. What have</p>
<p style="text-align: right;">Page 12</p> <p>1 V. HOLMES</p> <p>2 you done to prepare for your deposition today</p> <p>3 over the last four weeks, if anything?</p> <p>4 ATTORNEY BRUSTEIN: I'm going to</p> <p>5 object and limit the answer to anything</p> <p>6 not involving attorney-client</p> <p>7 communication.</p> <p>8 ATTORNEY BOLAND: Well, she can</p> <p>9 answer if she met with you. She just</p> <p>10 doesn't have to reveal the substance. I</p> <p>11 just want to know what she has done.</p> <p>12 Q. I'm not asking what anyone has told</p> <p>13 you. What have you done, if anything, over</p> <p>14 the last four weeks or so since you learned</p> <p>15 you were going to be deposed to prepare for</p> <p>16 your deposition?</p> <p>17 A. I read over briefly the EmPact.</p> <p>18 I've read over the discoveries. The</p> <p>19 complaints.</p> <p>20 Q. Anything else?</p> <p>21 A. That's about it, for my -- what I</p> <p>22 can recollect.</p> <p>23 Q. Is there anything that would</p> <p>24 refresh your recollection about what you did</p> <p>25 to prepare for your deposition today?</p>	<p style="text-align: right;">Page 13</p> <p>1 V. HOLMES</p> <p>2 A. No.</p> <p>3 Q. Okay. When you say the EmPact, are</p> <p>4 you talking about the EmPact agreement?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. When you say the</p> <p>7 "discoveries," what are you referring to?</p> <p>8 A. Just what we submitted to you, or</p> <p>9 to both of you. I looked briefly over that.</p> <p>10 Q. Can you tell me exactly what it was</p> <p>11 you looked at, as best you can recall, ma'am?</p> <p>12 A. I don't remember.</p> <p>13 Q. When did you look at that, the</p> <p>14 discovery information?</p> <p>15 A. About three, four weeks ago.</p> <p>16 Q. Okay. And then you also talk about</p> <p>17 looking at the complaints, is that right?</p> <p>18 A. Yes.</p> <p>19 Q. And there were two complaints in</p> <p>20 this case, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And did you review both of them?</p> <p>23 A. Briefly.</p> <p>24 Q. Briefly? And when did you do that?</p> <p>25 A. About two weeks ago.</p>

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1 V. HOLMES

2 Q. Have you done anything else to

3 prepare for your deposition other than the

4 things that you just mentioned?

5 A. That's all I can remember.

6 Q. Okay. This is a yes or no

7 question. Did you have conversations with

8 counsel to prepare for your deposition?

9 A. Yes, I have.

10 Q. Okay. How many?

11 A. Two.

12 Q. In-person? By Zoom? By telephone?

13 How did they occur?

14 A. By telephone.

15 Q. When did they happen?

16 A. On Tuesday.

17 Q. Of this week?

18 A. Yes.

19 Q. And you had two different calls?

20 A. Yes.

21 Q. So one on Tuesday?

22 A. Yes.

23 Q. And when was the other?

24 A. Um, can I look at my notes?

25 Because I don't remember. It was like three

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1 V. HOLMES

2 not answer.

3 ATTORNEY BOLAND: She can answer

4 that. It's a yes-or-no question. I'm

5 asking her what documents there are.

6 ATTORNEY BRUSTEIN: You cannot ask

7 her about whether she and her attorney

8 reviewed documents.

9 ATTORNEY BOLAND: Of course I can.

10 ATTORNEY BRUSTEIN: I'm objecting.

11 ATTORNEY BOLAND: Fine. Are you

12 instructing her not to answer?

13 ATTORNEY BRUSTEIN: I am

14 instructing her not to answer that

15 question.

16 Q. Ms. Holmes, are you going to follow

17 your counsel's instruction and not answer my

18 question?

19 A. Yes, I am.

20 Q. Okay. Yes-or-no question. Were

21 you sent any documents in advance to review by

22 your lawyers?

23 ATTORNEY BRUSTEIN: I am going to

24 object and direct her not to answer what

25 was sent by her attorneys to review, if

Page 15

1 V. HOLMES

2 weeks --

3 ATTORNEY BRUSTEIN: You can't look

4 at anything. You just have to answer to

5 the best of your recollection.

6 A. About three weeks ago.

7 Q. About three weeks ago?

8 A. Yes.

9 Q. So let's start with the one about

10 three weeks ago. What lawyers were present on

11 the call? And by the way, all of your

12 meetings with lawyers have been by telephone

13 to prepare for your deposition, is that fair?

14 A. Yes, that is fair.

15 Q. Alright. Who was on the call three

16 weeks ago?

17 A. Evan Brustein and Brian Bromberg.

18 Q. Anyone else?

19 A. No.

20 Q. How long did the call last?

21 A. About an hour.

22 Q. Did you collectively, I know you

23 were in separate places on the phone, review

24 any documents during that call?

25 ATTORNEY BRUSTEIN: Objection. Do

Page 17

1 V. HOLMES

2 anything.

3 Q. You are going to follow your

4 lawyers instruction?

5 A. Yes, I am.

6 Q. Okay. I've just got to complete

7 the record so we can take it to the judge.

8 A. I understand.

9 Q. The second call that you had on

10 Tuesday, I take it?

11 A. Yes.

12 Q. Who was on that call?

13 A. Evan Brustein.

14 Q. All right.

15 A. And --

16 Q. Go ahead, please.

17 A. And Maya.

18 Q. And how long did that last?

19 A. A little over an hour.

20 Q. Okay. Did you collectively review

21 any -- yes or no question -- review any

22 documents on that call?

23 ATTORNEY BRUSTEIN: Objection. Do

24 not answer.

25 Q. And you are going to follow your --

<p>Page 18</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BOLAND: And that's</p> <p>3 privilege, right, is the grounds?</p> <p>4 ATTORNEY BRUSTEIN: Yes.</p> <p>5 Q. Are you going to follow</p> <p>6 Mr. Brustein's instruction and not answer?</p> <p>7 A. Yes.</p> <p>8 BY ATTORNEY BOLAND:</p> <p>9 Q. He appreciates that. Did</p> <p>10 Mr. Brustein or any other lawyers send you any</p> <p>11 documents to review in advance of their call?</p> <p>12 ATTORNEY BRUSTEIN: Objection. I</p> <p>13 direct her not to answer.</p> <p>14 ATTORNEY BOLAND: Privilege, right?</p> <p>15 ATTORNEY BRUSTEIN: Yes.</p> <p>16 Q. Are you going to follow his</p> <p>17 instruction and not answer my question, ma'am?</p> <p>18 A. Yes, I am.</p> <p>19 Q. At any point in time have any of</p> <p>20 your lawyers, yes or no question, sent you</p> <p>21 documents to review in preparation for your</p> <p>22 deposition?</p> <p>23 ATTORNEY BRUSTEIN: I'm sorry.</p> <p>24 Could you repeat that question?</p> <p>25 ATTORNEY BOLAND: It was basically</p>	<p>Page 19</p> <p>1 V. HOLMES</p> <p>2 a broader one than you just objected to.</p> <p>3 Q. At any time have any of the lawyers</p> <p>4 sent her documents, yes or no question, to</p> <p>5 review in preparation for your deposition?</p> <p>6 ATTORNEY BRUSTEIN: Objection. I'm</p> <p>7 directing her not to answer.</p> <p>8 ATTORNEY BOLAND: Privilege, right?</p> <p>9 ATTORNEY BRUSTEIN: Yes.</p> <p>10 Q. Okay. You are you going to follow</p> <p>11 his instruction and not answer?</p> <p>12 ATTORNEY BRUSTEIN: I am also going</p> <p>13 to object to you asking her if she's</p> <p>14 going to be following her attorneys</p> <p>15 directions.</p> <p>16 Q. Are you going to follow your</p> <p>17 attorneys instruction and not answer my</p> <p>18 question, ma'am?</p> <p>19 ATTORNEY BRUSTEIN: I directed her</p> <p>20 not to answer. There's no reason to get</p> <p>21 an answer from her. You are going to</p> <p>22 take this to the judge –</p> <p>23 ATTORNEY BOLAND: It completes the</p> <p>24 circle. She can just answer yes or no.</p> <p>25 That's fine.</p>
<p>Page 20</p> <p>1 V. HOLMES</p> <p>2 Q. Are you going to follow his</p> <p>3 instruction and not answer my question, ma'am?</p> <p>4 ATTORNEY BRUSTEIN: I think you can</p> <p>5 also take to the judge the objection and</p> <p>6 my direction not to answer and the judge</p> <p>7 will either overrule my objection or</p> <p>8 not. I think it's gratuitous and an</p> <p>9 unnecessary question.</p> <p>10 Q. Are you going to follow your</p> <p>11 lawyer's instruction and not answer my</p> <p>12 question, ma'am?</p> <p>13 ATTORNEY BRUSTEIN: I'm still</p> <p>14 objecting to this.</p> <p>15 ATTORNEY BOLAND: I am just asking</p> <p>16 her if she's going to follow the</p> <p>17 instruction and not answer the question</p> <p>18 to complete the loop for the record.</p> <p>19 It's not a big deal.</p> <p>20 ATTORNEY BRUSTEIN: The loop is</p> <p>21 already completed.</p> <p>22 ATTORNEY BOLAND: This is silly.</p> <p>23 ATTORNEY BRUSTEIN: This is silly.</p> <p>24 Why don't we move on.</p> <p>25 ATTORNEY BOLAND: Okay. I object.</p>	<p>Page 21</p> <p>1 V. HOLMES</p> <p>2 It's ridiculous.</p> <p>3 Q. Did any of the documents that you</p> <p>4 did review, the ones that you told me about,</p> <p>5 the EmPact, the discovery and the complaints,</p> <p>6 did they refresh your recollection about any</p> <p>7 of the underlying events at issue in the case?</p> <p>8 A. Yes and no. I mean ...</p> <p>9 Q. How so? What did they help to</p> <p>10 refresh your recollection on?</p> <p>11 A. Well, it didn't help. I was just</p> <p>12 reviewing it just to stay focused on, you</p> <p>13 know, if there was anything that I missed and</p> <p>14 everything seemed relative to what I know.</p> <p>15 Q. Okay. What's your home address,</p> <p>16 ma'am?</p> <p>17 A. [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 Q. And do you have a mobile telephone</p> <p>20 that you use?</p> <p>21 A. Yes, I do.</p> <p>22 Q. What is the number?</p> <p>23 A. [REDACTED]</p> <p>24 Q. And have you had that same number</p> <p>25 for a while, for a number of years?</p>

<p style="text-align: right;">Page 22</p> <p>1 V. HOLMES</p> <p>2 A. Yes.</p> <p>3 Q. About how long, do you have an</p> <p>4 idea?</p> <p>5 A. About twenty-five years.</p> <p>6 Q. Oh, my. Okay. What email</p> <p>7 addresses have you used over the last, say,</p> <p>8 five years?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 Q. You can answer.</p> <p>11 THE WITNESS: I can answer?</p> <p>12 ATTORNEY BRUSTEIN: Yes, you can</p> <p>13 answer.</p> <p>14 A. Okay. [REDACTED]@yahoo.com.</p> <p>15 Q. Any other email addresses?</p> <p>16 A. I do.</p> <p>17 Q. What are they?</p> <p>18 A. Dvivan –</p> <p>19 Q. Vvivan?</p> <p>20 A. D, as in David, Vivian.</p> <p>21 Q. Got it.</p> <p>22 A. – 42@Verizon.net.</p> <p>23 Q. Any others?</p> <p>24 A. No.</p> <p>25 Q. Do you participate in or do you</p>	<p style="text-align: right;">Page 23</p> <p>1 V. HOLMES</p> <p>2 have a presence on any social media platforms?</p> <p>3 A. Yes.</p> <p>4 Q. Which ones?</p> <p>5 A. Facebook, Instagram, LinkedIn.</p> <p>6 Q. Any others?</p> <p>7 A. That is all, to the best of my</p> <p>8 knowledge.</p> <p>9 Q. Are you known by, to your friends</p> <p>10 or colleagues by any nicknames?</p> <p>11 A. No.</p> <p>12 Q. You mentioned LinkedIn.</p> <p>13 (Defendants' Exhibit 3, LinkedIn</p> <p>14 profile was marked for identification).</p> <p>15 Q. Ms. Holmes, I am handing you what</p> <p>16 has been marked as exhibit 3. And I am going</p> <p>17 to make a representation to you, ma'am, and if</p> <p>18 it's wrong your lawyers will correct me over</p> <p>19 the calls later, but I am going to tell you</p> <p>20 this is a copy of the activity from your</p> <p>21 LinkedIn profile that I printed up recently.</p> <p>22 You can see at the top there's</p> <p>23 2/28/23 at 07:14? How often do you go on</p> <p>24 LinkedIn, ma'am?</p> <p>25 ATTORNEY BRUSTEIN: I'm sorry. Can</p>
<p style="text-align: right;">Page 24</p> <p>1 V. HOLMES</p> <p>2 I just have a moment to review this?</p> <p>3 ATTORNEY BOLAND: You can look at</p> <p>4 it.</p> <p>5 Q. How often do you go on to LinkedIn?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 You've just handed me a ten-page</p> <p>8 document that has not been turned over</p> <p>9 in discovery. I would like a minute to</p> <p>10 review –</p> <p>11 ATTORNEY BOLAND: You can take a</p> <p>12 look at it.</p> <p>13 ATTORNEY BRUSTEIN: I know, but</p> <p>14 before you ask a question where I need</p> <p>15 to pay attention to it –</p> <p>16 ATTORNEY RISMAN: I would like to</p> <p>17 take a look at it, too.</p> <p>18 ATTORNEY BOLAND: So let's be</p> <p>19 clear. I'm not going to eat up</p> <p>20 deposition time by people leafing</p> <p>21 through every page of the document to</p> <p>22 eat up the time that we have. If you</p> <p>23 want to go off the record to do it, I'm</p> <p>24 happy to do that.</p> <p>25 ATTORNEY RISMAN: Let's go off the</p>	<p style="text-align: right;">Page 25</p> <p>1 V. HOLMES</p> <p>2 record –</p> <p>3 ATTORNEY BRUSTEIN: No, let's not</p> <p>4 go off the record. I got this. I'm not</p> <p>5 taking time. You're handing me a ten</p> <p>6 page document. I would like to have a</p> <p>7 few seconds to be able to look at it.</p> <p>8 ATTORNEY BOLAND: Feel free, sir.</p> <p>9 ATTORNEY BRUSTEIN: Thank you.</p> <p>10 ATTORNEY BOLAND: I'm not actually</p> <p>11 going to ask her about the document yet,</p> <p>12 so I'll just ask her other questions. I</p> <p>13 just want to know how often she goes on</p> <p>14 LinkedIn.</p> <p>15 THE WITNESS: I feel comfortable</p> <p>16 answering these questions because I'm</p> <p>17 not –</p> <p>18 ATTORNEY BRUSTEIN: Please. No one</p> <p>19 has asked you any questions. If I</p> <p>20 object or we have a back and forth,</p> <p>21 that's between the attorneys.</p> <p>22 Okay. I'll wait to look at this</p> <p>23 for a question.</p> <p>24 Q. Yes, I just want to know how often</p> <p>25 you go on LinkedIn, ma'am?</p>

<p>Page 26</p> <p>1 V. HOLMES</p> <p>2 A. Maybe --</p> <p>3 ATTORNEY BRUSTEIN: I'm going to</p> <p>4 object. What is the purpose of how</p> <p>5 often she goes on?</p> <p>6 Q. You can answer the question.</p> <p>7 A. Maybe once every week or once --</p> <p>8 recently I've gone on more than usual. But</p> <p>9 not often.</p> <p>10 Q. Okay. And when you say once every</p> <p>11 week, and I'm not holding you to that being</p> <p>12 every week --</p> <p>13 A. Yes, please don't.</p> <p>14 Q. But on a semi-regular basis</p> <p>15 essentially, would that be a fair</p> <p>16 characterization?</p> <p>17 A. Of once a week?</p> <p>18 Q. Yeah.</p> <p>19 A. Loosely.</p> <p>20 Q. Okay. And how long have you done</p> <p>21 that for?</p> <p>22 A. I'm not sure.</p> <p>23 Q. How long have you been on LinkedIn</p> <p>24 for?</p> <p>25 A. Oh, I'm not sure about that either.</p>	<p>Page 27</p> <p>1 V. HOLMES</p> <p>2 Q. More than --</p> <p>3 A. It's not something that, you</p> <p>4 know --</p> <p>5 Q. Let's use COVID as the denominator</p> <p>6 here, the demarcation line, since that seems</p> <p>7 to fit.</p> <p>8 Were you on LinkedIn before the</p> <p>9 COVID pandemic hit in March of 2020?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And you've been on ever</p> <p>12 since?</p> <p>13 A. Yes.</p> <p>14 Q. And you're still on today, right?</p> <p>15 On LinkedIn? You still maintain that profile?</p> <p>16 A. Yes.</p> <p>17 Q. Okay.</p> <p>18 (Defendants' Exhibit 4, LinkedIn</p> <p>19 document was marked for identification).</p> <p>20 Q. I am handing you what has been</p> <p>21 marked as exhibit 4 --</p> <p>22 ATTORNEY BRUSTEIN: Are there no</p> <p>23 questions?</p> <p>24 ATTORNEY BOLAND: No. Once she</p> <p>25 told me that she has been on it</p>
<p>Page 28</p> <p>1 V. HOLMES</p> <p>2 regularly, I don't need that for</p> <p>3 reference.</p> <p>4 THE WITNESS: So we're done with 3?</p> <p>5 Q. Yes, you're done with 3. And feel</p> <p>6 free to take a look at this one, it's like</p> <p>7 it's more like two pages. But I will make a</p> <p>8 representation to you, ma'am, that I went to</p> <p>9 your LinkedIn page yesterday and the top upper</p> <p>10 right-hand 3/29/23 at 16:30. Have you had a</p> <p>11 chance to take a look at both pages?</p> <p>12 (The witness reviews document.)</p> <p>13 ATTORNEY BRUSTEIN: I would just</p> <p>14 note this is a four page document.</p> <p>15 ATTORNEY BOLAND: Is it?</p> <p>16 ATTORNEY BRUSTEIN: It's only two</p> <p>17 pages.</p> <p>18 ATTORNEY BOLAND: Oh, yeah. That</p> <p>19 was 2 of 4. Fair enough.</p> <p>20 (The witness reviews document.)</p> <p>21 Q. Do you recognize this, at least</p> <p>22 this part of your LinkedIn profile, ma'am?</p> <p>23 A. Yes.</p> <p>24 Q. Okay, good. And under your</p> <p>25 experience where do you identify yourself as</p>	<p>Page 29</p> <p>1 V. HOLMES</p> <p>2 currently being employed?</p> <p>3 A. I'm not employed right now. I am</p> <p>4 furloughed.</p> <p>5 Q. Where does your experience identify</p> <p>6 you as being currently employed?</p> <p>7 A. At the Four Seasons hotel.</p> <p>8 Q. Thank you. Tell me a little bit</p> <p>9 about your education, ma'am? I see here you</p> <p>10 went to John Jay College?</p> <p>11 A. That is correct.</p> <p>12 Q. When did you -- and you graduated</p> <p>13 in 2003?</p> <p>14 A. Yes.</p> <p>15 Q. A degree in criminology?</p> <p>16 A. Yes.</p> <p>17 Q. What did you do after you</p> <p>18 graduated?</p> <p>19 A. Well, I graduated while I was</p> <p>20 working for the Four Seasons Hotel.</p> <p>21 Q. So when did you start working at</p> <p>22 the Four Seasons Hotel? I thought it was</p> <p>23 2016, but maybe I'm wrong?</p> <p>24 ATTORNEY BRUSTEIN: Objection. Is</p> <p>25 there a question?</p>

<p>Page 30</p> <p>1 V. HOLMES</p> <p>2 Q. Yes. When did you start working at</p> <p>3 Four Seasons Hotel?</p> <p>4 ATTORNEY BOLAND: That you could</p> <p>5 answer. He's not objecting to that one.</p> <p>6 A. 1998.</p> <p>7 Q. Okay. So you went to college while</p> <p>8 you were employed, correct?</p> <p>9 A. Yes.</p> <p>10 Q. I take it after you got your degree</p> <p>11 you just continued working at the Four</p> <p>12 Seasons, correct?</p> <p>13 A. Yes.</p> <p>14 (Defendants' Exhibit 5, Complaint</p> <p>15 was marked for identification).</p> <p>16 ATTORNEY BOLAND: Let's mark this</p> <p>17 as exhibit 5.</p> <p>18 Q. Ms. Holmes, I have handed you a</p> <p>19 document that bears the title Complaint. And</p> <p>20 if you look at the top, ma'am, you'll see that</p> <p>21 there is some stamping lines and I will</p> <p>22 represent to you that that is placed on it by</p> <p>23 the electronic filing system with the court at</p> <p>24 the top of the first page.</p> <p>25 Do you see where I'm referring to?</p>	<p>Page 31</p> <p>1 V. HOLMES</p> <p>2 A. Yes.</p> <p>3 Q. Feel free to leaf through it as</p> <p>4 much as you need to. This is a copy of the</p> <p>5 original of the first complaint that was filed</p> <p>6 on your behalf in this case?</p> <p>7 A. Yes.</p> <p>8 (The witness reviews document.)</p> <p>9 Q. Did you review the complaint that's</p> <p>10 marked as exhibit 5 before it was filed?</p> <p>11 A. Yes, I did.</p> <p>12 Q. Okay. So you read it through. Did</p> <p>13 you read it through from start to finish</p> <p>14 completely before it was filed?</p> <p>15 A. Yes.</p> <p>16 Q. Did you approve it to be filed,</p> <p>17 ma'am?</p> <p>18 A. Yes, I did.</p> <p>19 Q. And this has individual causes of</p> <p>20 action. Do you know what a cause of action</p> <p>21 is? Do you understand that?</p> <p>22 A. Briefly.</p> <p>23 Q. Just tell me your understanding so</p> <p>24 we're on the same page. I want to make sure I</p> <p>25 use the right term.</p>
<p>Page 32</p> <p>1 V. HOLMES</p> <p>2 A. Cause of action?</p> <p>3 Q. Yes.</p> <p>4 A. I guess what I am -- what we're</p> <p>5 complaining about?</p> <p>6 Q. Okay. You know what a claim -- can</p> <p>7 you think of it as like a claim for relief?</p> <p>8 Does that ring a bell for you or not?</p> <p>9 A. I'm not sure.</p> <p>10 Q. Do you understand that there are</p> <p>11 individual claims being asserted on your</p> <p>12 behalf or were being asserted on your</p> <p>13 behalf -- well, strike that.</p> <p>14 Do you understand that you have</p> <p>15 individually sued the defendants in this case,</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. And you understand that you</p> <p>19 have asserted various causes of action or</p> <p>20 claims for relief against them?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. We're going to get back to</p> <p>23 those a little bit but I just want to</p> <p>24 understand. Did you review each of the causes</p> <p>25 of action that was asserted on your behalf</p>	<p>Page 33</p> <p>1 V. HOLMES</p> <p>2 prior to the complaint being filed?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. There's also an amended</p> <p>5 complaint that was filed. By the way --</p> <p>6 ATTORNEY BOLAND: Strike that.</p> <p>7 Q. Is exhibit 5 one of the complaints</p> <p>8 that you reviewed in preparation for your</p> <p>9 deposition today?</p> <p>10 A. I believe so. I'm not sure. If</p> <p>11 there was another one -- I don't remember</p> <p>12 which one I looked at. If there was one or</p> <p>13 two.</p> <p>14 Q. Okay. Maybe this will help a</p> <p>15 little bit.</p> <p>16 A. Okay.</p> <p>17 (Defendants' Exhibit 6, First</p> <p>18 Amended Complaint was marked for</p> <p>19 identification).</p> <p>20 Q. I am handing you, ma'am, what has</p> <p>21 been marked as exhibit 6, which for the record</p> <p>22 is a document titled First Amended Complaint?</p> <p>23 ATTORNEY BRUSTEIN: Look at it</p> <p>24 before you answer.</p> <p>25 THE WITNESS: Okay.</p>

<p>Page 34</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: I just want you</p> <p>3 to answer his -- taking that as your</p> <p>4 answer.</p> <p>5 Q. And you will see, ma'am, at the top</p> <p>6 that there is that same type of stamping line.</p> <p>7 And this has got a file date of 12/19/2022,</p> <p>8 right?</p> <p>9 A. Yes, I see that.</p> <p>10 Q. Okay. And you have seen the first</p> <p>11 amended complaint before?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Did you review the</p> <p>14 first amended complaint prior to it being</p> <p>15 filed?</p> <p>16 A. Yes.</p> <p>17 Q. From start to finish, first page to</p> <p>18 last?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. In detail, right?</p> <p>21 A. To the best of my recollection,</p> <p>22 yes.</p> <p>23 Q. Every paragraph, because you see we</p> <p>24 all have numbered paragraphs in these things?</p> <p>25 A. Yes.</p>	<p>Page 35</p> <p>1 V. HOLMES</p> <p>2 Q. All right. Did you approve it to</p> <p>3 be filed on your behalf?</p> <p>4 A. Yes.</p> <p>5 Q. All right. As between the two</p> <p>6 complaints that we have seen, one marked as</p> <p>7 exhibit 5 and one marked as exhibit 6, did you</p> <p>8 review both or one of these in preparation for</p> <p>9 your deposition today?</p> <p>10 A. I am not sure which one I reviewed.</p> <p>11 But I did see both complaints before they were</p> <p>12 filed.</p> <p>13 Q. You saw both complaints before they</p> <p>14 were filed. Okay. Here's what I understand,</p> <p>15 to get the sense of. We have the original</p> <p>16 complaint that was exhibit 5 that was filed --</p> <p>17 A. Yes, August 19 --</p> <p>18 Q. -- filed on August 9, 2022,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you reviewed it before it was</p> <p>22 filed?</p> <p>23 A. Absolutely.</p> <p>24 Q. Have you reviewed it at all since</p> <p>25 it was filed?</p>
<p>Page 36</p> <p>1 V. HOLMES</p> <p>2 A. I can't answer that. I reviewed a</p> <p>3 complaint and I don't know if it was the</p> <p>4 August or the December. But I have reviewed</p> <p>5 both.</p> <p>6 Q. Fair enough. I'm just wondering if</p> <p>7 after this complaint number one, exhibit 5 was</p> <p>8 filed, putting aside what you did to prepare</p> <p>9 for your deposition today, did you review it,</p> <p>10 ever review it again after you reviewed it and</p> <p>11 approved it to be filed?</p> <p>12 A. I cannot answer your question --</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 Q. You may answer.</p> <p>15 A. I cannot answer your question the</p> <p>16 way you want me to. I read both but I don't</p> <p>17 know which one I read recently.</p> <p>18 Q. Okay. And I understand that. What</p> <p>19 I'm wondering is that after the complaint</p> <p>20 number one was filed, putting aside what you</p> <p>21 did recently, did you ever pick it up and</p> <p>22 review it again or don't you remember?</p> <p>23 ATTORNEY BRUSTEIN: Objection. I</p> <p>24 am going to direct her not to answer.</p> <p>25 At this point you've asked it four times</p>	<p>Page 37</p> <p>1 V. HOLMES</p> <p>2 and she's answered it four times.</p> <p>3 Q. You can answer the question, ma'am.</p> <p>4 A. Again, I read both. I don't know</p> <p>5 which one I read recently.</p> <p>6 Q. Okay. Fair enough. You understand</p> <p>7 that both complaints in this case were filed</p> <p>8 as class actions, correct?</p> <p>9 A. Yes, I am aware.</p> <p>10 Q. What's a class action?</p> <p>11 A. It's when you certify a class</p> <p>12 action to represent a group that have the same</p> <p>13 interest on something that was unjust.</p> <p>14 Q. And you understand in a class</p> <p>15 action that you are seeking to serve as the</p> <p>16 representative of others who will not be</p> <p>17 actually joined as parties to the case?</p> <p>18 A. Yes. I understand that.</p> <p>19 Q. What investigation, if any, did you</p> <p>20 do to determine what may be your</p> <p>21 responsibilities or obligations to serve as a</p> <p>22 class representative?</p> <p>23 A. You are asking me what steps did I</p> <p>24 take to know what I need to do to be a class</p> <p>25 representative?</p>

<p style="text-align: right;">Page 38</p> <p>1 V. HOLMES</p> <p>2 Q. Correct.</p> <p>3 A. Okay.</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 You can answer.</p> <p>6 A. I just know that I am willing to be</p> <p>7 a class representative and I'm not sure what,</p> <p>8 you know, what are the steps once it's</p> <p>9 certified, what I need to do. But I am going</p> <p>10 to do it.</p> <p>11 Q. Do you have an understanding as to</p> <p>12 whether or not you have responsibilities as a</p> <p>13 class representative, should a class be</p> <p>14 certified?</p> <p>15 A. I'm sure that I have</p> <p>16 responsibilities.</p> <p>17 Q. What are they?</p> <p>18 A. I am not sure.</p> <p>19 Q. Did you do any investigation to</p> <p>20 find out?</p> <p>21 A. Honestly, no.</p> <p>22 Q. Okay. What is your authority with</p> <p>23 respect -- I am asking you about your</p> <p>24 authority with respect to the case, okay?</p> <p>25 That's the topic I want to get to. Let's</p>	<p style="text-align: right;">Page 39</p> <p>1 V. HOLMES</p> <p>2 start with the allegations that are made in</p> <p>3 the complaint.</p> <p>4 What authority do you have as to</p> <p>5 whether specific allegations in the complaint</p> <p>6 were made or not made?</p> <p>7 ATTORNEY BRUSTEIN: I'm going to</p> <p>8 object.</p> <p>9 A. I don't understand the question.</p> <p>10 Q. Yes, sure. You understand --</p> <p>11 ATTORNEY BRUSTEIN: Before you ask</p> <p>12 that again, I would like to just take a</p> <p>13 five-minute break?</p> <p>14 ATTORNEY BOLAND: Sure.</p> <p>15 ATTORNEY BRUSTEIN: Thanks.</p> <p>16 ---</p> <p>17 (Recess from 10:32 to 10:39.)</p> <p>18 ---</p> <p>19 ATTORNEY BOLAND: We're back on the</p> <p>20 record.</p> <p>21 ATTORNEY BRUSTEIN: Before we go on</p> <p>22 to the next question, I think she just</p> <p>23 wants to correct one of the answers that</p> <p>24 she gave.</p> <p>25 ATTORNEY BOLAND: Sure.</p>
<p style="text-align: right;">Page 40</p> <p>1 V. HOLMES</p> <p>2 A. Yes. As far as investigating for</p> <p>3 class action, I didn't really understand what</p> <p>4 you meant by investigation. But I am a class</p> <p>5 representative and I am willing to talk to my</p> <p>6 attorneys to be guided and also to talk to the</p> <p>7 class members that do join, just to make sure</p> <p>8 that everything goes the way it's supposed to.</p> <p>9 Q. Okay. And putting that aside, in</p> <p>10 addition to that, ma'am, I understand what</p> <p>11 you're willing to do, fair enough. I think</p> <p>12 that's what you're telling me, what you were</p> <p>13 willing to do?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Did you do any investigation</p> <p>16 to determine what your responsibilities might</p> <p>17 be legally as a class representative?</p> <p>18 A. That's what I just answered.</p> <p>19 Q. So what investigation did you do</p> <p>20 legally that led you to the conclusion that</p> <p>21 being willing to talk to attorneys and talk to</p> <p>22 class representatives are your legal</p> <p>23 obligations as a class representative? You</p> <p>24 have to let me finish and I'll try to do the</p> <p>25 same for you.</p>	<p style="text-align: right;">Page 41</p> <p>1 V. HOLMES</p> <p>2 A. Mm-hmm.</p> <p>3 ATTORNEY BRUSTEIN: I am going to</p> <p>4 object to the form of the question.</p> <p>5 Q. You may answer.</p> <p>6 A. What do you mean by investigation?</p> <p>7 Q. Yes. Did you do any research --</p> <p>8 research -- to determine what, if any, might</p> <p>9 be your legal obligations if you are a class</p> <p>10 representative and the class is certified?</p> <p>11 A. Well, I'm not an attorney, so I</p> <p>12 would -- that's what I have Evan and Maya for.</p> <p>13 They would guide me and let me know what</p> <p>14 investigation needs to be made when being a</p> <p>15 class representative.</p> <p>16 Q. So is the answer that you have not</p> <p>17 done any as of yet? Any investigation?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 Q. You may answer.</p> <p>20 A. The investigations that I have made</p> <p>21 is knowing that I want to be a class</p> <p>22 representative.</p> <p>23 Q. Okay. How did you investigate</p> <p>24 that?</p> <p>25 A. I don't understand the question.</p>

<p>Page 42</p> <p>1 V. HOLMES</p> <p>2 Q. I mean did you do anything --</p> <p>3 A. Maybe you can use another word</p> <p>4 other than investigation?</p> <p>5 Q. Sure. I'll do research. Research</p> <p>6 work?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 Q. Have you done any research --</p> <p>9 online research, book research, magazine</p> <p>10 research, any kind of research at all -- to</p> <p>11 determine what if any your legal obligations</p> <p>12 may be as a class representative should a</p> <p>13 class be certified?</p> <p>14 A. My obligation is to make sure that</p> <p>15 the case goes in the proper direction and that</p> <p>16 I am representing the rest of the employees</p> <p>17 that are in my same situation.</p> <p>18 Q. Okay. I understand you're</p> <p>19 testifying now that you believe those are your</p> <p>20 obligations, is that a fair?</p> <p>21 A. As a class representative, yes.</p> <p>22 Q. My question is slightly different.</p> <p>23 What if any research did you do to determine</p> <p>24 what your obligations may be?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 43</p> <p>1 V. HOLMES</p> <p>2 A. The researches that I mentioned, I</p> <p>3 spoke with my attorneys and I have spoken to</p> <p>4 some members.</p> <p>5 Q. Who? Not your attorneys. Who are</p> <p>6 the members?</p> <p>7 A. Olive Rodriguez and Selena Staley.</p> <p>8 Q. And what did they if anything tell</p> <p>9 you about your legal obligations as a class</p> <p>10 representative should a class be certified?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. They did not speak about the</p> <p>13 obligations.</p> <p>14 Q. And it would be both Olive and</p> <p>15 Selena?</p> <p>16 A. Yes.</p> <p>17 Q. Other than talking to some class</p> <p>18 members have you done any other research to</p> <p>19 determine what, if any, your legal obligations</p> <p>20 are as a class representative?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. No other researches other than what</p> <p>23 I have stated.</p> <p>24 Q. Okay. Do you understand yourself,</p> <p>25 ma'am, you understand there are claims</p>
<p>Page 44</p> <p>1 V. HOLMES</p> <p>2 asserted on both complaints on behalf of you</p> <p>3 personally, right?</p> <p>4 A. Yes.</p> <p>5 Q. What is your authority with respect</p> <p>6 to whether claims are added, dropped,</p> <p>7 dismissed, et cetera? Do you have any</p> <p>8 authority in terms of determining approving</p> <p>9 what claims, specifically claims are asserted</p> <p>10 on your behalf?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. Could you re-ask that? You're</p> <p>13 asking me if I have the authority to --</p> <p>14 Q. Yeah, I want to know --</p> <p>15 A. -- to change anything?</p> <p>16 Q. To have something changed. I know</p> <p>17 you won't personally do it. To have the</p> <p>18 complaint changed, to either add claims,</p> <p>19 withdraw claims, dismiss claims. What is your</p> <p>20 authority?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I'm not sure.</p> <p>23 Q. Did you do any investigation,</p> <p>24 research, to find out?</p> <p>25 A. Not that I remember.</p>	<p>Page 45</p> <p>1 V. HOLMES</p> <p>2 Q. What about with settlement. What</p> <p>3 is your authority when it comes to settling?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I'm not sure.</p> <p>6 Q. Did you make any research -- do any</p> <p>7 research to find out?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I don't remember.</p> <p>10 Q. Is there anything that would</p> <p>11 refresh -- you don't remember whether you did?</p> <p>12 A. Answer -- ask the question again</p> <p>13 please?</p> <p>14 Q. Yes, sure. Did you do any research</p> <p>15 or -- I'm going to say research or</p> <p>16 investigation -- to find out what authority</p> <p>17 you have to settle claims in this case?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. I'm not sure. I don't know what</p> <p>20 authority I have.</p> <p>21 Q. I understand you don't know what</p> <p>22 authority you have. I get that. I want to</p> <p>23 know whether you did any research or</p> <p>24 investigation to determine what authority you</p> <p>25 have?</p>

<p style="text-align: right;">Page 46</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. No, I haven't.</p> <p>4 Q. Okay. What lawyers are</p> <p>5 representing you in this case?</p> <p>6 A. Evan Brustein, Maya Risman and</p> <p>7 Brian Bromberg.</p> <p>8 Q. How did you pick -- strike that.</p> <p>9 How did you go about selecting the</p> <p>10 lawyers that would represent you in this case?</p> <p>11 A. I had a referral.</p> <p>12 Q. A referral from whom?</p> <p>13 A. Tanish Trapp.</p> <p>14 Q. Can you spell that for me, ma'am?</p> <p>15 I'm sorry.</p> <p>16 A. T-a-n-i-s-h, Trapp, T-r-a-p-p.</p> <p>17 Q. And who is Ms. Trapp?</p> <p>18 A. She's a reservations and sales</p> <p>19 coordinator.</p> <p>20 Q. Where?</p> <p>21 A. I'm not sure.</p> <p>22 Q. So you don't know who she works</p> <p>23 for?</p> <p>24 A. At this moment? No.</p> <p>25 Q. Who did she work for previously?</p>	<p style="text-align: right;">Page 47</p> <p>1 V. HOLMES</p> <p>2 Do you have any idea of who she's worked for</p> <p>3 in the past?</p> <p>4 A. Yes.</p> <p>5 Q. Where? Who?</p> <p>6 A. Four Seasons Hotel.</p> <p>7 Q. So a Four Seasons employee?</p> <p>8 A. Mm-hmm.</p> <p>9 THE COURT REPORTER: Yes?</p> <p>10 THE WITNESS: Yes.</p> <p>11 Q. Why did you -- did you seek a</p> <p>12 referral from Ms. Trapp or did she offer a</p> <p>13 referral on her own?</p> <p>14 A. She offered.</p> <p>15 Q. And what were the circumstances, if</p> <p>16 you can describe them to me, that gave rise to</p> <p>17 it?</p> <p>18 A. She was in the same situation as</p> <p>19 several of us were, myself, and she stated</p> <p>20 that she didn't understand we were going to be</p> <p>21 called back, we were listening to rumors. And</p> <p>22 she said I think we need a legal</p> <p>23 representative. I know someone and are you</p> <p>24 willing. And I said, you know, I'll think</p> <p>25 about it. But I did not -- I didn't become</p>
<p style="text-align: right;">Page 48</p> <p>1 V. HOLMES</p> <p>2 active until several months after.</p> <p>3 Q. So looking at the date on the first</p> <p>4 complaint we saw that was August of 2022, the</p> <p>5 date that it was filed, how far in advance of</p> <p>6 that were your conversations with Ms. Trapp</p> <p>7 that you just described?</p> <p>8 A. About a year before.</p> <p>9 Q. About a year?</p> <p>10 A. Yes.</p> <p>11 Q. So 2021?</p> <p>12 A. Yes.</p> <p>13 Q. And did you have any other</p> <p>14 conversations with folks similar to the ones</p> <p>15 you had with Ms. Trapp, before the suit was</p> <p>16 filed in August of 2022?</p> <p>17 A. I don't remember.</p> <p>18 Q. To whom or to what firm did Ms.</p> <p>19 Trapp refer you?</p> <p>20 A. To Risman & Risman and Brustein</p> <p>21 Law.</p> <p>22 Q. To both of them?</p> <p>23 A. Yes.</p> <p>24 Q. Do you have an understanding as to</p> <p>25 how Ms. Trapp became familiar with those law</p>	<p style="text-align: right;">Page 49</p> <p>1 V. HOLMES</p> <p>2 firms?</p> <p>3 A. I don't know.</p> <p>4 Q. What investigation, if any, did you</p> <p>5 do of, for example, Mr. Brustein before you --</p> <p>6 ATTORNEY BOLAND: Strike that.</p> <p>7 Q. I take it at some point you engaged</p> <p>8 Mr. Brustein to represent you in connection</p> <p>9 with a lawsuit against the defendants in this</p> <p>10 case?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Prior to that time what, if</p> <p>13 any, investigations did you do into</p> <p>14 Mr. Brustein and his qualifications?</p> <p>15 A. I don't remember.</p> <p>16 Q. Did you do any?</p> <p>17 A. Don't remember.</p> <p>18 Q. After the time that you engaged</p> <p>19 Mr. Brustein what, if any, investigation did</p> <p>20 you do into his qualifications?</p> <p>21 A. I don't remember.</p> <p>22 Q. Did you do any?</p> <p>23 A. I don't remember.</p> <p>24 Q. That's fair. I've just got to ask</p> <p>25 the questions and get the answers, ma'am.</p>

<p>Page 50</p> <p>1 V. HOLMES</p> <p>2 A. Sure.</p> <p>3 Q. What about -- you said Risan &</p> <p>4 Risan? Was that the other firm that you</p> <p>5 referred to?</p> <p>6 ATTORNEY BOLAND: Strike that.</p> <p>7 Q. I understand Mr. Brustein is a sole</p> <p>8 practitioner, right? He basically -- he has</p> <p>9 his own office?</p> <p>10 A. I'm not sure.</p> <p>11 Q. Okay. Were you referred to him by</p> <p>12 name or by law firm?</p> <p>13 A. By name.</p> <p>14 Q. By personal name? Okay. What</p> <p>15 about Risan & Risan, were you referred to</p> <p>16 them by name or to any individual law firm --</p> <p>17 lawyer?</p> <p>18 A. By name.</p> <p>19 Q. Okay. And who were you referred</p> <p>20 to?</p> <p>21 A. Maya Risan.</p> <p>22 Q. All right. And I take it that at</p> <p>23 some point you engaged Risan & Risan and</p> <p>24 Ms. Risan to represent you in connection with</p> <p>25 the lawsuit against the defendants in this</p>	<p>Page 51</p> <p>1 V. HOLMES</p> <p>2 case, fair?</p> <p>3 A. Fair.</p> <p>4 Q. Okay. What, if any, investigation</p> <p>5 did you do into Ms. Risan's qualifications</p> <p>6 before you engaged the firm?</p> <p>7 A. I don't remember, other than</p> <p>8 Tanish's vouching for her saying that, you</p> <p>9 know, she's a good attorney.</p> <p>10 Q. And after you engaged Ms. Risan,</p> <p>11 what, if any, investigation did you do into</p> <p>12 her qualifications?</p> <p>13 A. I don't remember.</p> <p>14 Q. Do you know whether you did any?</p> <p>15 A. I don't remember.</p> <p>16 Q. Any other lawyers representing you</p> <p>17 in this case?</p> <p>18 A. Brian Bromberg.</p> <p>19 Q. Okay, sorry. You probably told me</p> <p>20 that.</p> <p>21 A. I did.</p> <p>22 Q. I didn't write it down. When did</p> <p>23 you come to engage Mr. Bromberg?</p> <p>24 A. Several months ago. I don't</p> <p>25 recall.</p>
<p>Page 52</p> <p>1 V. HOLMES</p> <p>2 Q. And how did that engagement come</p> <p>3 about, ma'am?</p> <p>4 A. He was added to the case.</p> <p>5 Q. Okay. Did you make a decision to</p> <p>6 engage Mr. Bromberg, in addition to the</p> <p>7 lawyers that you already had representing you?</p> <p>8 A. Yes, I authorized for him to join</p> <p>9 the -- to certify the class action.</p> <p>10 Q. Why did you add another lawyer?</p> <p>11 A. That's his specialty.</p> <p>12 Q. What's his specialty? I'm sorry.</p> <p>13 A. Class actions.</p> <p>14 Q. And how did you come to learn that?</p> <p>15 A. By my attorneys.</p> <p>16 Q. What investigation, if any, did you</p> <p>17 do of the new lawyer's qualifications before</p> <p>18 you engaged him?</p> <p>19 A. I don't remember.</p> <p>20 Q. What, if any, investigation did you</p> <p>21 do of the new lawyer's qualifications after</p> <p>22 you engaged him?</p> <p>23 A. I don't remember.</p> <p>24 Q. Have you met all three of your</p> <p>25 lawyers in person?</p>	<p>Page 53</p> <p>1 V. HOLMES</p> <p>2 A. Yes. I've seen them.</p> <p>3 Q. How many times?</p> <p>4 A. I think once -- twice.</p> <p>5 Q. What are the roles of the various</p> <p>6 lawyers with respect to this lawsuit? In</p> <p>7 other words, is there a lead counsel? Are</p> <p>8 they co-counsel?</p> <p>9 A. I don't understand the question.</p> <p>10 Q. Yes, sure. Do you direct the work</p> <p>11 of your lawyers in this case? Let me start</p> <p>12 with that.</p> <p>13 ATTORNEY BRUSTEIN: Objection. I</p> <p>14 am going direct her not to answer,</p> <p>15 attorney-client communication.</p> <p>16 Q. Are you going to follow the</p> <p>17 instruction and not answer?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Do you allocate work among</p> <p>20 the various lawyers? You, Ms. Holmes, do you</p> <p>21 allocate work amongst the various lawyers?</p> <p>22 ATTORNEY BRUSTEIN: Objection. I</p> <p>23 direct her not to answer.</p> <p>24 Q. You are not going to answer, right?</p> <p>25 A. No.</p>

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1 V. HOLMES

2 Q. Okay. That's fine. Do you have

3 written fee agreements with any of your

4 lawyers?

5 A. I don't know how to answer that

6 question. What are you -- can you re-ask it?

7 Q. Sure, no problem. When you

8 engaged -- let's start with Mr. Brustein.

9 When you engaged Mr. Brustein did you sign any

10 kind of an engagement letter with any

11 discussion of fees or not being paid fees?

12 A. To the best of my knowledge I

13 believe so.

14 Q. And did you maintain a copy of

15 that?

16 A. I think so.

17 Q. How about with the Risman firm?

18 Did you sign a written engagement letter of

19 some sort with the Risman firm?

20 A. I believe it's all in the same.

21 ATTORNEY RISMAN: Just for the

22 record it's Risman (Rees-man).

23 ATTORNEY BOLAND: Risman. I'm so

24 sorry.

25 ATTORNEY RISMAN: I happy to hear

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1 V. HOLMES

2 basis or is this being done on a contingency

3 basis?

4 ATTORNEY BRUSTEIN: Objection. I

5 direct her not to answer.

6 Q. Are you going to follow his

7 instruction?

8 A. Yes.

9 Q. Okay. Do you have any

10 responsibility to your understanding, ma'am,

11 for any of the costs involved in this lawsuit?

12 A. Could you ask that again?

13 Q. Yes, sure. Do you have any

14 responsibility, to your understanding, for any

15 of the costs involved in this lawsuit?

16 A. Your question is do I have to pay

17 them?

18 Q. Do you have to pay -- yes. Do you

19 understand that you have any personal

20 responsibility to pay costs relating to -- any

21 costs relating to this lawsuit?

22 A. Yes.

23 Q. Okay. What is your understanding?

24 A. My understanding is that they get

25 paid a third of whatever damages is incurred.

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1 V. HOLMES

2 it a few times, but like over and over

3 it's really hard for me. I'm sorry.

4 ATTORNEY BOLAND: I am going to

5 write that out.

6 ATTORNEY RISMAN: I know it's

7 spelled like Risman, but it's Risman

8 (Rees-man.)

9 ATTORNEY BOLAND: No worries. I'll

10 try -- it's going to haunt me now.

11 ATTORNEY BRUSTEIN: Just think of

12 Reese's Pieces.

13 Q. Fair enough. What about with the

14 Risman firm? Did you sign a written

15 engagement letter with them?

16 A. I answered that.

17 Q. I know. I am asking one more time.

18 I want to make sure I'm clear with the

19 interruption.

20 A. I think it's all and the same.

21 Q. Okay. And how about with

22 Mr. Bromberg? Did you sign an engagement

23 letter with Mr. Bromberg?

24 A. I'm not sure. I don't remember.

25 Q. Are you paying lawyers on an hourly

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1 V. HOLMES

2 Q. Okay. Let's assume -- you

3 understand that there's a chance that you

4 could prevail in this lawsuit and win, right?

5 A. Yes, I understand.

6 Q. You understand there's a chance you

7 could lose, correct?

8 A. Yes, I understand that.

9 Q. Okay. Now if you -- whether you

10 win or you lose, putting aside legal fees, do

11 you have any understanding that you have any

12 liability or responsibility to pay costs, like

13 filing fees, paying the notice of the --

14 notice going to the class if one is certified;

15 any financial obligation?

16 A. I'm not sure if I should answer

17 that. That goes back to if this case was

18 based on a contingency.

19 Q. Well, you've already answered that.

20 You told me they get a third. That answers my

21 contingency question. My question is

22 different.

23 A. Okay. Ask it again?

24 Q. Yes, sure. Do you understand that

25 apart from legal fees there may be costs,

<p>Page 58</p> <p>1 V. HOLMES</p> <p>2 other out of pocket costs associated with</p> <p>3 being represented in a lawsuit?</p> <p>4 A. No.</p> <p>5 Q. You don't. You don't understand</p> <p>6 that, for example, if somebody wants to buy</p> <p>7 the transcript, order the transcript from this</p> <p>8 fine man here, that that was going to cost</p> <p>9 money?</p> <p>10 A. No.</p> <p>11 Q. All right. Did you understand that</p> <p>12 if a class is certified, that there will have</p> <p>13 to be notice provided to the class?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Do you have any</p> <p>16 understanding that you have any obligation or</p> <p>17 responsibility to pay the costs of that</p> <p>18 notice?</p> <p>19 A. No. I'm not sure.</p> <p>20 Q. Okay. Do you understand as to</p> <p>21 whether win, lose or draw at the end of this</p> <p>22 case, you will have any personal out of pocket</p> <p>23 financial responsibility?</p> <p>24 A. No.</p> <p>25 Q. No you don't have an understanding</p>	<p>Page 59</p> <p>1 V. HOLMES</p> <p>2 or no you don't believe you will have any?</p> <p>3 A. No, I don't believe that anything</p> <p>4 will come out of pocket.</p> <p>5 Q. Okay. Are you prepared as you sit</p> <p>6 here today, ma'am, to accept whatever</p> <p>7 individual personal financial liability may go</p> <p>8 along with this case?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 Q. You may answer.</p> <p>11 A. Could you ask that again?</p> <p>12 Q. Sure.</p> <p>13 ATTORNEY BOLAND: Why don't we read</p> <p>14 it back.</p> <p>15 (Requested portion of the record</p> <p>16 read back.)</p> <p>17 A. Yes.</p> <p>18 Q. You are. Okay. And that would</p> <p>19 include -- would that include, hypothetically,</p> <p>20 paying the legal fees of the defendants, if</p> <p>21 that were to come to pass?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 Q. You may answer.</p> <p>24 A. No.</p> <p>25 Q. You're not prepared to accept that?</p>
<p>Page 60</p> <p>1 V. HOLMES</p> <p>2 A. No.</p> <p>3 Q. Okay. All right. Let's take a</p> <p>4 look at your amended complaint. You might</p> <p>5 want to keep that one out because I think</p> <p>6 we're going to come back to that one from time</p> <p>7 to time. This is exhibit 6. All right. We</p> <p>8 talked earlier that the complaint lays out,</p> <p>9 among other things, your individual claims,</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 Q. And it contains, you know, the term</p> <p>13 allegation. Does that term make sense to you</p> <p>14 in the context of the complaint?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And there's a lot of</p> <p>17 numbered paragraphs of allegations, right?</p> <p>18 A. Mm-hmm.</p> <p>19 Q. Okay. And you'll notice that there</p> <p>20 are allegations that are made about you in the</p> <p>21 complaint, in the amended complaint, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And let's take a look at the</p> <p>24 very -- page 2 of it, please, ma'am. Strike</p> <p>25 that. If you can start on page 1. And you'll</p>	<p>Page 61</p> <p>1 V. HOLMES</p> <p>2 see right under Complaint it identifies</p> <p>3 plaintiffs and then it goes on and you are one</p> <p>4 of them, right?</p> <p>5 A. Yes.</p> <p>6 Q. So the term plaintiffs, as you</p> <p>7 understand it throughout the complaint</p> <p>8 includes you, personally?</p> <p>9 A. Yes.</p> <p>10 Q. All right. And if we take a look,</p> <p>11 ma'am, there's a lot of allegations in the</p> <p>12 complaint about plaintiffs, and you can start</p> <p>13 with, for example, paragraph 1 on page 2.</p> <p>14 Do you see it refers to this action</p> <p>15 is brought by "plaintiffs," correct?</p> <p>16 A. Yes.</p> <p>17 Q. That includes you, right?</p> <p>18 A. Yes.</p> <p>19 Q. And, for example, if you look at</p> <p>20 paragraph 6, and you can take a look at it, it</p> <p>21 also refers to "plaintiffs," correct?</p> <p>22 A. Yes.</p> <p>23 Q. And that includes you, right?</p> <p>24 A. Yes.</p> <p>25 Q. And in paragraph 15 for example, on</p>

<p>Page 62</p> <p>1 V. HOLMES</p> <p>2 page 4? Do you see that allegation also talks</p> <p>3 about "plaintiffs," right?</p> <p>4 A. Yes.</p> <p>5 Q. And as we talked about earlier you</p> <p>6 recognize, ma'am, that there's a lot of</p> <p>7 allegations in the complaint about plaintiffs,</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. What did you do, if</p> <p>11 anything, to ensure the accuracy of each and</p> <p>12 every one of those allegations?</p> <p>13 A. I read them.</p> <p>14 Q. Anything else?</p> <p>15 A. I read them to make sure that they</p> <p>16 were accurate.</p> <p>17 Q. Okay. And you did that before the</p> <p>18 complaints were filed, both complaints, right?</p> <p>19 A. Yes.</p> <p>20 Q. And if there was anything that was</p> <p>21 inaccurate you would have raised that with</p> <p>22 your lawyers to make sure they knew, correct?</p> <p>23 A. Yes.</p> <p>24 Q. So sitting here today you take</p> <p>25 responsibility for the accuracy of the</p>	<p>Page 63</p> <p>1 V. HOLMES</p> <p>2 allegations that are made about plaintiffs,</p> <p>3 that includes you, in the amended complaint,</p> <p>4 do you not?</p> <p>5 A. Yes.</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 You can answer.</p> <p>8 Q. Now with respect to allegations</p> <p>9 that aren't about you, don't involve</p> <p>10 plaintiffs -- and I'll take for example, let's</p> <p>11 go to page 9. And this is just for example,</p> <p>12 purposes, ma'am. If you'll see starting at</p> <p>13 paragraph 42, there's allegations about</p> <p>14 something called Four Seasons Hotels, and then</p> <p>15 it's followed by a colon?</p> <p>16 Do you see what I am referring to,</p> <p>17 starting at paragraph 42 and going down?</p> <p>18 A. Mm-hmm. Yes.</p> <p>19 Q. Okay. What, if anything, did you</p> <p>20 do to ensure the accuracy of allegations such</p> <p>21 as the ones we see on page 9 of the complaint?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 You can answer.</p> <p>24 A. I'm not sure how to answer this</p> <p>25 question. What are you asking me?</p>
<p>Page 64</p> <p>1 V. HOLMES</p> <p>2 Q. Yes. There are allegations in the</p> <p>3 complaint that are about the plaintiffs, and</p> <p>4 that includes you, right?</p> <p>5 A. Right.</p> <p>6 Q. And then there are allegations that</p> <p>7 mention you specifically, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And you told me before, and</p> <p>10 I don't want to misstate your testimony so</p> <p>11 tell me if I'm wrong, that you read those to</p> <p>12 ensure that they were accurate?</p> <p>13 A. Yes.</p> <p>14 Q. What about the allegations that</p> <p>15 aren't about plaintiffs, including you, but</p> <p>16 about others? And here I just used an example</p> <p>17 of, you know, Four Seasons Hotels. What, if</p> <p>18 anything, did you do to ensure the accuracy of</p> <p>19 the allegations that were made about others,</p> <p>20 not about you?</p> <p>21 A. I didn't make allegations about</p> <p>22 others.</p> <p>23 Q. Well, there's allegations in the</p> <p>24 complaint, ma'am, on paragraph 42, I'm</p> <p>25 sorry -- starting at paragraph 42 about Four</p>	<p>Page 65</p> <p>1 V. HOLMES</p> <p>2 Seasons Hotels.</p> <p>3 A. Right.</p> <p>4 Q. What did you do to ensure the</p> <p>5 accuracy of allegations such as that?</p> <p>6 A. That's the hotel that I work for.</p> <p>7 Q. I understand that. What did you do</p> <p>8 to ensure the accuracy of that allegation?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 You can answer.</p> <p>11 A. It is accurate. That's the Four</p> <p>12 Seasons and those are the addresses.</p> <p>13 Q. All right. Let's look at another</p> <p>14 one. Maybe I'll give you a little bit of a</p> <p>15 different one to get you ...</p> <p>16 Look at paragraph 44. It says Four</p> <p>17 Seasons Hotels is registered and authorized to</p> <p>18 do business and to work in New York State, and</p> <p>19 it goes on. I'm not trying to limit it. What</p> <p>20 did you do to ensure the accuracy of that</p> <p>21 allegation about where Four Seasons Hotels is</p> <p>22 registered and authorized to do business?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. Four Seasons Hotels is registered.</p> <p>25 Q. Yeah. What investigation did you</p>

<p>Page 66</p> <p>1 V. HOLMES</p> <p>2 do to ensure that that was true, if any?</p> <p>3 A. I didn't do any investigation on</p> <p>4 that.</p> <p>5 Q. Okay. With respect to the</p> <p>6 allegations that aren't about you</p> <p>7 individually, did you do any investigation or</p> <p>8 research to confirm that they were true before</p> <p>9 the complaint was filed -- before any of the</p> <p>10 complaints were filed?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. I don't remember.</p> <p>13 Q. Do you keep yourself apprised of</p> <p>14 the developments in the case? In other words</p> <p>15 things that are filed with the court?</p> <p>16 A. Do I keep myself aware, you're</p> <p>17 saying?</p> <p>18 Q. Yes. Sorry. Aware. Yes. Do you</p> <p>19 keep yourself informed about the different</p> <p>20 things that are filed in the case?</p> <p>21 A. Sometimes.</p> <p>22 Q. All right. Let's look at a few.</p> <p>23 (Defendants' Exhibit 7, Notice of</p> <p>24 Motion to Compel Arbitration and Dismiss</p> <p>25 Class Claims and Stay Action, Memorandum</p>	<p>Page 67</p> <p>1 V. HOLMES</p> <p>2 of Law in Support was marked for</p> <p>3 identification).</p> <p>4 Q. Ma'am, I am handing you what has</p> <p>5 been marked as --</p> <p>6 A. Are we still referring to this</p> <p>7 exhibit 6?</p> <p>8 Q. Yes. Keep that one out. We're</p> <p>9 going to get back to that a couple of times.</p> <p>10 You have been handed what has been</p> <p>11 marked as exhibit 7. For the record it's two</p> <p>12 documents placed together as one exhibit. The</p> <p>13 first is Document 27 from the case, filed</p> <p>14 11/9/2002.</p> <p>15 Notice of Motion to Compel</p> <p>16 Arbitration and Dismiss Class Claims and Stay</p> <p>17 Action.</p> <p>18 The second is three pages in,</p> <p>19 Document 31, Memorandum of Law in Support.</p> <p>20 Go ahead and leaf through that. I</p> <p>21 just want to ask you if you've ever seen it</p> <p>22 before, first?</p> <p>23 (The witness reviews document.)</p> <p>24 Q. Have you ever seen it before,</p> <p>25 ma'am?</p>
<p>Page 68</p> <p>1 V. HOLMES</p> <p>2 A. I don't remember.</p> <p>3 Q. Did you know that there was a</p> <p>4 motion filed to basically take this case out</p> <p>5 of court and send it to arbitration?</p> <p>6 A. I'm not sure.</p> <p>7 Q. You are not sure if you knew that?</p> <p>8 A. Well --</p> <p>9 Q. Yeah, I am asking independent of</p> <p>10 the document if you were aware of that fact?</p> <p>11 A. Yes.</p> <p>12 Q. You were aware of that fact?</p> <p>13 A. That you guys wanted to take it to</p> <p>14 arbitration?</p> <p>15 Q. Okay. Yes.</p> <p>16 A. That's what you are asking me?</p> <p>17 Q. Yes.</p> <p>18 A. Yes.</p> <p>19 Q. All right. And did you know -- I</p> <p>20 am going to do it in baby steps. Did you know</p> <p>21 there was a motion, a petition of some sort</p> <p>22 filed with the court asking the court to do</p> <p>23 exactly that, send the case to arbitration?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. Yes.</p>	<p>Page 69</p> <p>1 V. HOLMES</p> <p>2 Q. Did you review the papers that were</p> <p>3 submitted in connection with that?</p> <p>4 A. I don't remember.</p> <p>5 Q. How often do you get papers that</p> <p>6 are filed in the case on regular basis?</p> <p>7 ATTORNEY BRUSTEIN: Objection. I</p> <p>8 am going to direct her not to answer.</p> <p>9 Q. Are you going to follow the</p> <p>10 instruction?</p> <p>11 A. Yes.</p> <p>12 Q. Got it. Okay. So as you sit here</p> <p>13 today you don't know if you saw exhibit 7</p> <p>14 before?</p> <p>15 A. I don't remember.</p> <p>16 Q. Okay.</p> <p>17 ATTORNEY BRUSTEIN: Are you done</p> <p>18 with this one?</p> <p>19 A. Are we done with this?</p> <p>20 ATTORNEY BOLAND: Yes.</p> <p>21 (Defendants' Exhibit 8, Declaration</p> <p>22 of Cathy Hwang was marked for</p> <p>23 identification).</p> <p>24 Q. I am handing you, ma'am, what has</p> <p>25 been marked as exhibit 8 which for the record</p>

<p>Page 70</p> <p>1 V. HOLMES</p> <p>2 is a document Declaration of Cathy Hwang.</p> <p>3 It's Document 30 in the lawsuit. And I will</p> <p>4 represent to you, ma'am, this is in connection</p> <p>5 with the motion with respect to arbitration.</p> <p>6 And motion to dismiss, that I will get to in a</p> <p>7 sec.</p> <p>8 My first question is have you ever</p> <p>9 seen exhibit 8 before?</p> <p>10 A. I don't recall. I don't remember.</p> <p>11 ATTORNEY BRUSTEIN: Just for the</p> <p>12 record it also has the attachments, or</p> <p>13 exhibits?</p> <p>14 ATTORNEY BOLAND: Yes. And the</p> <p>15 document will be what it is. It will be</p> <p>16 marked and all of that other good stuff.</p> <p>17 ATTORNEY BRUSTEIN: The last time</p> <p>18 you had said that it was a three-page so</p> <p>19 I just was --</p> <p>20 ATTORNEY BOLAND: There were two</p> <p>21 docs together. There was the doc itself</p> <p>22 and then the memorandum -- the notice of</p> <p>23 motion and then the memorandum in</p> <p>24 support. I put them all together rather</p> <p>25 than mark them separately. This is all</p>	<p>Page 71</p> <p>1 V. HOLMES</p> <p>2 one thing with the exhibits.</p> <p>3 Q. And as you sit here today, you</p> <p>4 don't know if you've ever seen exhibit 8</p> <p>5 before, is that fair?</p> <p>6 A. Yeah, I don't remember.</p> <p>7 (Defendants' Exhibit 9, Memorandum</p> <p>8 of Law in Opposition to Defendants'</p> <p>9 Motion to Compel Arbitration, Dismiss</p> <p>10 Class Claims and Stay Action was marked</p> <p>11 for identification).</p> <p>12 ATTORNEY BRUSTEIN: I'm sorry, what</p> <p>13 was the last question?</p> <p>14 ATTORNEY BOLAND: As she sits here</p> <p>15 today she doesn't know if she's ever</p> <p>16 seen exhibit 8 before.</p> <p>17 ATTORNEY BRUSTEIN: This is not</p> <p>18 exhibit A. That's what he's asking</p> <p>19 about.</p> <p>20 ATTORNEY BOLAND: No, I was asking</p> <p>21 about exhibit 8. The whole thing.</p> <p>22 ATTORNEY BRUSTEIN: Exhibit A or 8?</p> <p>23 ATTORNEY BOLAND: 8.</p> <p>24 ATTORNEY BRUSTEIN: I heard "A."</p> <p>25 ATTORNEY RISMAN: I did, too.</p>
<p>Page 72</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Then I</p> <p>3 apologize.</p> <p>4 ATTORNEY BOLAND: No worries.</p> <p>5 ATTORNEY BRUSTEIN: It just</p> <p>6 happened to be the letter/number issue.</p> <p>7 ATTORNEY BOLAND: Yes.</p> <p>8 Q. All right. I am handing you,</p> <p>9 ma'am, what has been marked as exhibit 9 --</p> <p>10 A. We're done with 8?</p> <p>11 Q. We are done with 8, ma'am. Which</p> <p>12 for the record is Document 44 in the lawsuit.</p> <p>13 Memorandum of Law in Opposition to Defendants'</p> <p>14 Motion to Compel Arbitration, Dismiss Class</p> <p>15 Claims, and Stay Action.</p> <p>16 Ma'am, my first question is going</p> <p>17 to be have you ever seen exhibit 9 before?</p> <p>18 A. I don't remember.</p> <p>19 Q. Do you have a recollection at all</p> <p>20 of any of the -- well, strike that.</p> <p>21 You had mentioned to me I think</p> <p>22 earlier that you had looked at at least one of</p> <p>23 the complaints in preparation for your</p> <p>24 deposition, right?</p> <p>25 A. I -- yes.</p>	<p>Page 73</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. So I take that you had that</p> <p>3 in your possession at your, at your home or</p> <p>4 office or whatever?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Do you have a file with any</p> <p>7 other filings that were made in the</p> <p>8 arbitration other than the complaint that you</p> <p>9 looked at?</p> <p>10 A. I don't understand.</p> <p>11 Q. Yes, sure. You had mentioned to me</p> <p>12 that you looked at a couple of things before</p> <p>13 you were deposed to prepare, one of which was</p> <p>14 the complaint, at least one of the complaints,</p> <p>15 right?</p> <p>16 A. Mm-hmm.</p> <p>17 Q. Yes?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. The other was you said some</p> <p>20 discovery materials, and I'll ask you about</p> <p>21 those in a minute, right?</p> <p>22 A. Yes.</p> <p>23 Q. I take it, tell me if I am wrong,</p> <p>24 that you had those in your possession</p> <p>25 somewhere maybe in your home?</p>

<p style="text-align: right;">Page 74</p> <p>1 V. HOLMES</p> <p>2 A. Yes.</p> <p>3 Q. All right. Do you have them</p> <p>4 physically, you know, paper, or do you have</p> <p>5 them electronically?</p> <p>6 A. Both.</p> <p>7 Q. All right. Other than the</p> <p>8 complaint and the discovery materials that</p> <p>9 we'll get to in a minute do you have any other</p> <p>10 documents from the lawsuit, filings such as</p> <p>11 what we see here as exhibit 9 in your file?</p> <p>12 A. No.</p> <p>13 Q. Okay.</p> <p>14 ATTORNEY BRUSTEIN: Are you done</p> <p>15 with this exhibit?</p> <p>16 ATTORNEY BOLAND: Yes.</p> <p>17 ATTORNEY BRUSTEIN: Could we take a</p> <p>18 five-minute break?</p> <p>19 ATTORNEY BOLAND: Sure.</p> <p>20 ATTORNEY BRUSTEIN: Thanks.</p> <p>21 --</p> <p>22 (Recess from 11:11 to 11:19.)</p> <p>23 --</p> <p>24 (Defendants' Exhibit 10,</p> <p>25 Declaration of Evan Brustein was marked</p>	<p style="text-align: right;">Page 75</p> <p>1 V. HOLMES</p> <p>2 for identification).</p> <p>3 Q. I am handing you what has been</p> <p>4 marked as exhibit 10, which for the record is</p> <p>5 Document 43 from the lawsuit titled</p> <p>6 Declaration of Evan Brustein.</p> <p>7 And my first question, ma'am, is,</p> <p>8 and I'm not trying to hide the ball on you, I</p> <p>9 will represent to you that there is a</p> <p>10 declaration by you attached to this. If you</p> <p>11 want to look back towards the end, I think</p> <p>12 it's like the second-to-last page.</p> <p>13 Do you recognize that page at</p> <p>14 least, ma'am?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Have you ever seen, other</p> <p>17 than the declaration that is attached that you</p> <p>18 have executed, ma'am, have you ever seen</p> <p>19 exhibit 10 before?</p> <p>20 A. Meaning just this page?</p> <p>21 Q. No, no, no. I understand that you</p> <p>22 will have seen the, some of the exhibits in 10</p> <p>23 before. I understand that, ma'am. I want to</p> <p>24 know if you have seen the declaration itself</p> <p>25 as packaged this way with the exhibits that</p>
<p style="text-align: right;">Page 76</p> <p>1 V. HOLMES</p> <p>2 are attached?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 (The witness reviews document.)</p> <p>5 A. I'm not sure. I have seen the</p> <p>6 EmPact, that's part of the exhibit, right?</p> <p>7 Q. Yes, ma'am.</p> <p>8 A. I did sign it. I signed this last</p> <p>9 page.</p> <p>10 Q. Yes. I want to know if you have</p> <p>11 seen, as a filing, exhibit 10 in its entirety?</p> <p>12 In other words, the very first page with the</p> <p>13 exhibits attached to it. I understand you</p> <p>14 have seen some of the exhibits before. I want</p> <p>15 to understand if you have seen this document</p> <p>16 that was filed with the court?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 You can answer.</p> <p>19 A. I'm not sure.</p> <p>20 Q. You don't know whether you have</p> <p>21 seen it before?</p> <p>22 A. Not as a packet, the way you're</p> <p>23 saying it to me.</p> <p>24 Q. Okay. That's what I want to know.</p> <p>25 Okay?</p>	<p style="text-align: right;">Page 77</p> <p>1 V. HOLMES</p> <p>2 (Defendants' Exhibit 11, Reply</p> <p>3 Memorandum of Law in Further Support of</p> <p>4 the Warner Defendants' Motion to Compel</p> <p>5 was marked for identification).</p> <p>6 Q. Ma'am, I am handing you what has</p> <p>7 been marked as exhibit 11, which for the</p> <p>8 record is Document 46 filed in the lawsuit</p> <p>9 titled Reply Memorandum of Law in Further</p> <p>10 Support of the Warner Defendants' Motion to</p> <p>11 Compel, and goes on.</p> <p>12 My question is going to be the same</p> <p>13 as the others. Have you ever seen exhibit 11</p> <p>14 before?</p> <p>15 A. No, I have not.</p> <p>16 Q. Okay. Do you have an</p> <p>17 understanding, ma'am, that after the first</p> <p>18 complaint was filed, the original complaint</p> <p>19 was filed there was a motion to dismiss that</p> <p>20 complaint that was filed?</p> <p>21 A. Yes.</p> <p>22 (Defendants' Exhibit 12, Notice of</p> <p>23 Motion to Dismiss, Memorandum of Law in</p> <p>24 Support of the Warner Defendants' Motion</p> <p>25 to Dismiss the Complaint was marked for</p>

<p>Page 78</p> <p>1 V. HOLMES</p> <p>2 identification).</p> <p>3 Q. I am handing you, ma'am, what has</p> <p>4 been marked as exhibit 12, which is Document</p> <p>5 28 in the lawsuit. And this is two documents</p> <p>6 I will represent to you as one exhibit. The</p> <p>7 first two pages are Document 28 in the lawsuit</p> <p>8 titled Notice of Motion to Dismiss. The rest</p> <p>9 of the document is Document 41 in the lawsuit,</p> <p>10 Memorandum of Law in Support.</p> <p>11 My question is -- I know you</p> <p>12 understand that there was a motion to dismiss</p> <p>13 filed.</p> <p>14 A. Right.</p> <p>15 Q. Have you ever seen exhibit 12</p> <p>16 before? Either part of it, either the Notice</p> <p>17 of Motion to Dismiss or the Memorandum in</p> <p>18 Support?</p> <p>19 A. No.</p> <p>20 (Defendants' Exhibit 13,</p> <p>21 Declaration of Elizabeth Ortiz was</p> <p>22 marked for identification).</p> <p>23 Q. I am handing you, ma'am, what has</p> <p>24 been marked as exhibit 13, which for the</p> <p>25 record is Document 40 in the lawsuit plus the</p>	<p>Page 79</p> <p>1 V. HOLMES</p> <p>2 attachments titled Declaration of Elizabeth</p> <p>3 Ortiz. I understand, ma'am, that you may have</p> <p>4 seen some of the attachments before.</p> <p>5 A. Mm-hmm.</p> <p>6 Q. My question is actually have you</p> <p>7 ever seen this filing as it was filed in the</p> <p>8 court as exhibit 12?</p> <p>9 A. No.</p> <p>10 Q. Exhibit 13, I'm sorry.</p> <p>11 ATTORNEY BOLAND: Did I mark that</p> <p>12 13 or 12?</p> <p>13 THE COURT REPORTER: 13.</p> <p>14 ATTORNEY BOLAND: Okay, good.</p> <p>15 Q. Do you know whether your lawyers</p> <p>16 opposed the first motion to dismiss that the</p> <p>17 Warner defendants filed?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. Do I know if they --</p> <p>20 Q. Whether they opposed it in court,</p> <p>21 whether they filed an opposition -- let me</p> <p>22 make it simpler. Do you know whether your</p> <p>23 lawyers filed an opposition in court to the</p> <p>24 Warner defendants' motion to dismiss the first</p> <p>25 complaint?</p>
<p>Page 80</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I believe so.</p> <p>4 Q. That's your understanding?</p> <p>5 A. That's my understanding.</p> <p>6 Q. You do know that there was a</p> <p>7 second, a first amended complaint filed?</p> <p>8 We've got it sitting around right there,</p> <p>9 right?</p> <p>10 A. I'm sorry?</p> <p>11 Q. You know -- you can put that aside.</p> <p>12 You know that there was a first amended</p> <p>13 complaint then filed after the first -- after</p> <p>14 the original complaint, right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Were you aware that the</p> <p>17 Warner defendants filed a motion to dismiss</p> <p>18 that complaint as well?</p> <p>19 A. Yes.</p> <p>20 (Defendants' Exhibit 14, Notice of</p> <p>21 Motion to Dismiss, Memorandum of Law in</p> <p>22 Support of the Warner Defendants' Motion</p> <p>23 to Dismiss was marked for</p> <p>24 identification).</p> <p>25 Q. I am handing you, ma'am, what has</p>	<p>Page 81</p> <p>1 V. HOLMES</p> <p>2 been marked exhibit 14, which for the record</p> <p>3 is again two documents, two documents placed</p> <p>4 together as a single exhibit. The first is</p> <p>5 Document 50 from the lawsuit titled Notice of</p> <p>6 Motion to Dismiss. And the second two pages</p> <p>7 is Document 53 from the lawsuit, Memorandum of</p> <p>8 Law in Support of the Warner Defendants'</p> <p>9 Motion to Dismiss.</p> <p>10 And my basic question is going to</p> <p>11 be have you ever seen exhibit 14, either of</p> <p>12 the two documents that are attached?</p> <p>13 A. No, I haven't.</p> <p>14 (Defendants' Exhibit 15,</p> <p>15 Declaration of Elizabeth Ortiz with</p> <p>16 exhibits was marked for identification).</p> <p>17 Q. I am handing you, ma'am, what has</p> <p>18 been marked as exhibit 15, which for the</p> <p>19 record is a document, Document 52 and exhibits</p> <p>20 from the lawsuit entitled Declaration of</p> <p>21 Elizabeth Ortiz.</p> <p>22 I understand, ma'am, that you may</p> <p>23 have seen some of the exhibits that are</p> <p>24 attached to exhibit 15 before. My question is</p> <p>25 have you ever seen this filing, the</p>

<p>Page 82</p> <p>1 V. HOLMES</p> <p>2 declaration of Elizabeth Ortiz with the</p> <p>3 exhibits attached before?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. No, I haven't.</p> <p>6 (Defendants' Exhibit 16,</p> <p>7 Plaintiffs' Memorandum of Law in</p> <p>8 Opposition to Defendants' Hotel 57</p> <p>9 Services Motion to Dismiss the Amended</p> <p>10 Complaint was marked for</p> <p>11 identification).</p> <p>12 Q. I am handing you, ma'am, what has</p> <p>13 been marked as exhibit 16 which for the record</p> <p>14 is Document 57 from the lawsuit entitled</p> <p>15 Plaintiffs' Memorandum of Law in Opposition to</p> <p>16 Defendants' Hotel 57 Services, and it goes</p> <p>17 on ... Motion to Dismiss the Amended</p> <p>18 Complaint.</p> <p>19 And my question is have you ever</p> <p>20 seen exhibit 16 before?</p> <p>21 A. No, I haven't.</p> <p>22 Q. So I take it you didn't do anything</p> <p>23 to ensure the accuracy of anything that was</p> <p>24 represented in the opposition before it was</p> <p>25 filed, correct?</p>	<p>Page 83</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I'm not sure.</p> <p>4 Q. Well, if you haven't seen it, then</p> <p>5 I take it, ma'am, and tell me if I am wrong,</p> <p>6 that you did nothing to ensure the accuracy of</p> <p>7 anything that was contained in the opposition</p> <p>8 before it was filed?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I'm not sure.</p> <p>11 Q. Well, did you see it before, or</p> <p>12 not?</p> <p>13 A. Well, I didn't see it like this.</p> <p>14 But I don't know if I helped to put this</p> <p>15 together. That's what I have my attorneys</p> <p>16 there for.</p> <p>17 Q. I understand that.</p> <p>18 A. Okay.</p> <p>19 Q. Did you have any conversations with</p> <p>20 your attorney, it's a yes or no question, just</p> <p>21 the subject matter, about the content of the</p> <p>22 opposition to the Warner defendants' motion to</p> <p>23 dismiss?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't remember.</p>
<p>Page 84</p> <p>1 V. HOLMES</p> <p>2 Q. Anything that would bring that</p> <p>3 back, that would refresh your recollection in</p> <p>4 any way, ma'am?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I don't remember.</p> <p>7 Q. Okay. Do you have any recollection</p> <p>8 or memory of questioning the accuracy of</p> <p>9 anything that was stated in exhibit 16?</p> <p>10 ATTORNEY BRUSTEIN: Objection. I</p> <p>11 am going to direct her not to answer any</p> <p>12 questions about attorney-client</p> <p>13 communication.</p> <p>14 ATTORNEY BOLAND: I am only</p> <p>15 asking -- I am asking nothing more than</p> <p>16 you won't have to put out a privilege</p> <p>17 log. I never am asking for the</p> <p>18 substance of the communication.</p> <p>19 Q. Do you have any recollection of</p> <p>20 questioning the accuracy of anything that was</p> <p>21 contained in exhibit 16?</p> <p>22 A. I don't remember.</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 (Defendants' Exhibit 17,</p> <p>25 Declaration of Evan Brustein with</p>	<p>Page 85</p> <p>1 V. HOLMES</p> <p>2 exhibits was marked for identification).</p> <p>3 Q. I am handing you, Ms. Holmes, what</p> <p>4 has been marked as exhibit 17.</p> <p>5 MR. ZIMMERMAN: For the record, was</p> <p>6 she directed not to answer that last</p> <p>7 question?</p> <p>8 ATTORNEY BOLAND: I think she</p> <p>9 answered it. You let her answer that</p> <p>10 last one, right?</p> <p>11 ATTORNEY BRUSTEIN: I mean she had</p> <p>12 an answer.</p> <p>13 ATTORNEY RISMAN: There was an</p> <p>14 objection on the record and she answered</p> <p>15 it.</p> <p>16 ATTORNEY BOLAND: Okay.</p> <p>17 Q. I have handed you, ma'am, what has</p> <p>18 been marked as exhibit 17 which for the record</p> <p>19 is Document 56 and exhibits to it, that's</p> <p>20 titled Declaration of Evan Brustein. Again,</p> <p>21 ma'am, I believe you may know -- well, have</p> <p>22 you ever seen exhibit 17 or any of the</p> <p>23 exhibits before?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 (The witness reviews document.)</p>

<p>Page 86</p> <p>1 V. HOLMES</p> <p>2 A. No, I haven't.</p> <p>3 (Defendants' Exhibit 18,</p> <p>4 Declaration of Vivian Holmes was marked</p> <p>5 for identification).</p> <p>6 Q. Ms. Holmes I am handing you what</p> <p>7 has been marked as exhibit 18 which for the</p> <p>8 record is a document marked as Document 55 in</p> <p>9 the lawsuit, and it's titled Declaration of</p> <p>10 Vivian Holmes.</p> <p>11 Do you recognize this as a</p> <p>12 declaration that you executed on or about</p> <p>13 February 6 of 2023, ma'am?</p> <p>14 A. I do remember signing it. Do you</p> <p>15 have the rest of this document?</p> <p>16 Q. It's Document 55.</p> <p>17 A. Oh, okay.</p> <p>18 Q. Yeah, that's all I have.</p> <p>19 A. Okay. Yes.</p> <p>20 Q. And you understood that when you</p> <p>21 executed this it was also under penalty of</p> <p>22 perjury, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And the statements that were made</p> <p>25 were true and correct at the time you executed</p>	<p>Page 87</p> <p>1 V. HOLMES</p> <p>2 it?</p> <p>3 A. Yes.</p> <p>4 Q. And they remain true and correct</p> <p>5 today?</p> <p>6 A. Yes.</p> <p>7 Q. All right. We're almost to the end</p> <p>8 of this chain.</p> <p>9 (Defendants' Exhibit 19, Reply</p> <p>10 Memorandum of Law in Further Support of</p> <p>11 the Warner Defendants' Motion to Dismiss</p> <p>12 the Amended Complaint was marked for</p> <p>13 identification).</p> <p>14 Q. I am handing you, Ms. Holmes, what</p> <p>15 has been marked as exhibit 19, which for the</p> <p>16 record is Document 58 in the lawsuit titled</p> <p>17 Reply Memorandum of Law in Further Support of</p> <p>18 the Warner Defendants' Motion to Dismiss the</p> <p>19 Amended Complaint.</p> <p>20 And a simple question, ma'am. Have</p> <p>21 you ever seen -- this is 19, sorry. Right?</p> <p>22 THE COURT REPORTER: You have 19,</p> <p>23 yes.</p> <p>24 Q. Thank you. Okay. Have you ever</p> <p>25 seen exhibit 19 before?</p>
<p>Page 88</p> <p>1 V. HOLMES</p> <p>2 A. No, I haven't.</p> <p>3 Q. All right. Do you understand that</p> <p>4 one of your responsibilities as a plaintiff in</p> <p>5 this lawsuit is to cooperate in the discovery</p> <p>6 process?</p> <p>7 A. I believe so.</p> <p>8 Q. Okay. Do you have an understanding</p> <p>9 of what the discovery process is?</p> <p>10 A. I'm not sure.</p> <p>11 Q. Okay. Do you understand that --</p> <p>12 let me give you an example. Well, strike</p> <p>13 that. You're here today for a deposition,</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Do you understand this to be</p> <p>17 part of the discovery process of learning the</p> <p>18 facts before trial?</p> <p>19 A. Yes.</p> <p>20 Q. Do you understand that there are</p> <p>21 also things like requests for documents to be</p> <p>22 produced that the parties exchange?</p> <p>23 A. Yes.</p> <p>24 Q. Do you understand that to be part</p> <p>25 of the discovery process before trial?</p>	<p>Page 89</p> <p>1 V. HOLMES</p> <p>2 A. Yes.</p> <p>3 Q. The same thing, have you ever heard</p> <p>4 the term interrogatory?</p> <p>5 A. No.</p> <p>6 Q. No?</p> <p>7 A. (Nodding head affirmatively.)</p> <p>8 Q. You don't know what interrogatories</p> <p>9 are?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 Q. You can answer.</p> <p>12 A. I'm assuming they're questions.</p> <p>13 Q. Did you -- well, we'll get to it in</p> <p>14 a second.</p> <p>15 A. Mm-hmm.</p> <p>16 Q. With respect to the discovery</p> <p>17 process that we just talked about, I just want</p> <p>18 to confirm that we're on the same page now, do</p> <p>19 you have an understanding that as a plaintiff</p> <p>20 in this lawsuit you have an obligation to</p> <p>21 participate in the discovery process?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. All right. We are going to</p> <p>24 mark some things that are more paper than they</p> <p>25 seem that we are going to use, but we are</p>

<p>Page 90</p> <p>1 V. HOLMES</p> <p>2 going to mark them.</p> <p>3 (Defendants' Exhibit 20,</p> <p>4 Plaintiffs' Rule 26 (A)(1)(A) Initial</p> <p>5 Disclosures was marked for</p> <p>6 identification).</p> <p>7 Q. Ms. Holmes, I am handing you what</p> <p>8 has been marked as exhibit 20, which for the</p> <p>9 record is a document titled Plaintiffs' Rule</p> <p>10 26 (A)(1)(A) Initial Disclosures. And</p> <p>11 following it are documents bearing the Bates</p> <p>12 number Staley v FSR 0001 to 0261. And let's</p> <p>13 start with the document that's entitled</p> <p>14 Plaintiffs' Rule 26 (A)(1)(A) Initial</p> <p>15 Disclosures.</p> <p>16 Have you ever seen this before?</p> <p>17 A. No, I haven't.</p> <p>18 ATTORNEY BRUSTEIN: Look at the</p> <p>19 document before you answer.</p> <p>20 THE WITNESS: Okay.</p> <p>21 (The witness reviews document.)</p> <p>22 Q. I am just asking you about the</p> <p>23 first document right now, before we get to the</p> <p>24 things with the numbers on them.</p> <p>25 A. Okay. I've seen some of this.</p>	<p>Page 91</p> <p>1 V. HOLMES</p> <p>2 Q. What parts have you seen, ma'am?</p> <p>3 A. No, I haven't seen this.</p> <p>4 Q. Okay, you haven't seen that?</p> <p>5 A. No.</p> <p>6 Q. So here I am going to let you know,</p> <p>7 ma'am, if you take a look at -- well, strike</p> <p>8 that.</p> <p>9 Have you ever heard of a Bates</p> <p>10 number?</p> <p>11 A. No.</p> <p>12 Q. Okay. So if you take a look at the</p> <p>13 page that you are looking at right now --</p> <p>14 A. Mm-hmm.</p> <p>15 Q. -- you will see in the lower</p> <p>16 right-hand corner there's a little number</p> <p>17 there with an prefix attached to it. So the</p> <p>18 prefix, when I'm talking about prefix is</p> <p>19 Staley v FSR and then there's a number that</p> <p>20 follows?</p> <p>21 A. Yes.</p> <p>22 Q. Do you see that?</p> <p>23 A. Mm-hmm.</p> <p>24 Q. That's what we call a Bates number.</p> <p>25 And in litigation lawyers put Bates numbers on</p>
<p>Page 92</p> <p>1 V. HOLMES</p> <p>2 the pages of every document because that's the</p> <p>3 way lawyers are.</p> <p>4 A. Okay.</p> <p>5 Q. All right. If I take a look,</p> <p>6 ma'am, at the document itself, the disclosures</p> <p>7 themselves -- right there, you've got it in</p> <p>8 your hand. And if you take a look, the pages</p> <p>9 are not numbered, but it is after -- it's the</p> <p>10 fifth page.</p> <p>11 ATTORNEY BRUSTEIN: Can you just</p> <p>12 state what the top number is on the</p> <p>13 fifth page.</p> <p>14 ATTORNEY BOLAND: I don't have a</p> <p>15 number on it.</p> <p>16 ATTORNEY BRUSTEIN: No, I am</p> <p>17 saying --</p> <p>18 ATTORNEY BOLAND: Oh, 33.</p> <p>19 ATTORNEY BRUSTEIN: Thank you.</p> <p>20 Q. Are you with me?</p> <p>21 A. Yes, I am.</p> <p>22 Q. And you will see that under B there</p> <p>23 is something, a copy or description by</p> <p>24 category and location of all documents, and</p> <p>25 then that goes on. Do you see what I am</p>	<p>Page 93</p> <p>1 V. HOLMES</p> <p>2 referring to?</p> <p>3 A. Yes.</p> <p>4 Q. And then you'll see that there's a</p> <p>5 number of things following on this page that's</p> <p>6 1 to 15. But it goes on for pages.</p> <p>7 A. Mm-hmm.</p> <p>8 Q. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And you'll see after the first one</p> <p>11 it says Staley v FSR 001, right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. That may be a typo because</p> <p>14 if you take a look at the page of the</p> <p>15 documents that we have there, it says</p> <p>16 Staley --</p> <p>17 A. There's three zeros.</p> <p>18 Q. But you match up the number, right?</p> <p>19 A. Yes.</p> <p>20 Q. And the last number that we have</p> <p>21 here on I think it's the next -- three pages</p> <p>22 in from the back.</p> <p>23 A. This one?</p> <p>24 Q. You'll see the last number there is</p> <p>25 Staley v FSR 0261?</p>

<p>Page 94</p> <p>1 V. HOLMES</p> <p>2 A. Yes.</p> <p>3 Q. And if you take a look, ma'am, and</p> <p>4 I'm not trying to hide the ball on you, take a</p> <p>5 look at the last page of the documents that</p> <p>6 are appended to exhibit 20 and you'll see it's</p> <p>7 the 261 page?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Did you have any role in</p> <p>10 gathering documents initially to be turned</p> <p>11 over in the lawsuit in connection with the</p> <p>12 initial disclosures that we have marked as</p> <p>13 exhibit 20?</p> <p>14 A. Can you rephrase that?</p> <p>15 Q. Yes, sure. Earlier on in the</p> <p>16 lawsuit -- well, strike that.</p> <p>17 You are familiar with a document</p> <p>18 request? I think we went over that a little</p> <p>19 bit?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. You know that the Warner</p> <p>22 defendants, and I think be FSR served document</p> <p>23 requests on you?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Before that time period</p>	<p>Page 95</p> <p>1 V. HOLMES</p> <p>2 happened, were you involved in gathering and</p> <p>3 providing to your lawyers documents related to</p> <p>4 the case to be turned over in connection with</p> <p>5 the initial disclosures?</p> <p>6 A. I don't remember.</p> <p>7 Q. Do you recognize the first page of</p> <p>8 this as a document from your files? This is</p> <p>9 on FSR -- it starts Staley v FSR 0001?</p> <p>10 A. Possibly.</p> <p>11 Q. Okay. So you don't remember -- I</p> <p>12 want to be fair to you, ma'am.</p> <p>13 A. Mm-hmm.</p> <p>14 Q. You don't remember gathering</p> <p>15 documents initially for your lawyers before we</p> <p>16 served a document request on you?</p> <p>17 A. No.</p> <p>18 ATTORNEY BRUSTEIN: Objection. Do</p> <p>19 not answer. You've got to wait a second</p> <p>20 so he can finish with his question.</p> <p>21 ATTORNEY BOLAND: I think I was</p> <p>22 finished. I want to know whether she</p> <p>23 remembers gathering documents initially</p> <p>24 to provide to you guys before our</p> <p>25 document requests, to understand the</p>
<p>Page 96</p> <p>1 V. HOLMES</p> <p>2 timing of what we have.</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't remember.</p> <p>5 Q. Okay. Putting aside the document</p> <p>6 that we had looked at earlier that you hadn't</p> <p>7 seen before, had you reviewed a complete set</p> <p>8 of documents turned over --</p> <p>9 ATTORNEY BOLAND: Strike that.</p> <p>10 You're not going to be able to know</p> <p>11 that. Don't worry about it.</p> <p>12 ATTORNEY BRUSTEIN: You're done</p> <p>13 with this whole set?</p> <p>14 ATTORNEY BOLAND: Yes. We are not</p> <p>15 going to use that.</p> <p>16 (Defendants' Exhibit 21,</p> <p>17 Plaintiffs' First Supplemental</p> <p>18 Disclosures was marked for</p> <p>19 identification).</p> <p>20 Q. Ms. Holmes, I am handing you what</p> <p>21 has been marked as exhibit 21 which for the</p> <p>22 record is a document titled Plaintiffs' First</p> <p>23 Supplemental Disclosures and there's a date on</p> <p>24 it of December 29, 2022. Have you ever seen</p> <p>25 exhibit 21 before?</p>	<p>Page 97</p> <p>1 V. HOLMES</p> <p>2 A. No, I don't recall.</p> <p>3 Q. You will see, ma'am, that there is</p> <p>4 a -- do you remember how we saw the listing of</p> <p>5 the documents and the Bates numbers in the</p> <p>6 prior exhibit, right?</p> <p>7 A. Yes.</p> <p>8 Q. And we see we have another thing</p> <p>9 listed here, audio recording on the June 25,</p> <p>10 2021 Zoom meetings, right? That description?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And then there's a Bates</p> <p>13 number of Staley v FSR 0262. That may also be</p> <p>14 a typo in terms of zeros, right?</p> <p>15 A. Yes.</p> <p>16 Q. What is that?</p> <p>17 A. What is it?</p> <p>18 Q. Yes. What is it?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. An audio recording, that's what it</p> <p>21 says.</p> <p>22 Q. Okay. It's an audio recording.</p> <p>23 Have you ever heard it?</p> <p>24 A. I don't know which one you're</p> <p>25 talking about.</p>

<p>Page 98</p> <p>1 V. HOLMES</p> <p>2 Q. The one that's identified here on</p> <p>3 this page.</p> <p>4 A. I would have to hear it. I don't</p> <p>5 know what you heard.</p> <p>6 Q. Okay, I haven't heard it. I am</p> <p>7 asking what is on the plaintiff's initial</p> <p>8 disclosures. You're a plaintiff, right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So it's a disclosure on your</p> <p>11 behalf, right? You understand that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Identified there is an audio</p> <p>14 recording --</p> <p>15 A. Mm-hmm.</p> <p>16 Q. -- on the June 25, 2021 zoom</p> <p>17 meeting. Right?</p> <p>18 A. Yes.</p> <p>19 Q. Have you heard it?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 Q. That audio recording that is</p> <p>22 identified on your disclosure?</p> <p>23 A. I've heard what I have possession</p> <p>24 of, yes.</p> <p>25 Q. And is this what you have</p>	<p>Page 99</p> <p>1 V. HOLMES</p> <p>2 possession of, ma'am? What's identified here?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 Q. You can answer the question?</p> <p>5 A. I do.</p> <p>6 Q. How did you obtain it?</p> <p>7 A. I was --</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I was invited to the Zoom meeting.</p> <p>10 Q. Understood. How did you obtain an</p> <p>11 audio recording?</p> <p>12 A. I recorded it.</p> <p>13 Q. How did you do that?</p> <p>14 A. By pressing record on my phone.</p> <p>15 Q. Do you have any idea of where all</p> <p>16 of the participants in that meeting may have</p> <p>17 been located?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. I believe in New York.</p> <p>20 Q. Do you know whether they were all</p> <p>21 in New York or some may have scattered to</p> <p>22 other places during the pandemic?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. My understanding, they were all in</p> <p>25 New York.</p>
<p>Page 100</p> <p>1 V. HOLMES</p> <p>2 Q. Are you sure of that?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I believe that they were in</p> <p>5 New York.</p> <p>6 Q. Okay. I understand you believe. I</p> <p>7 am asking if you know whether they were?</p> <p>8 ATTORNEY BRUSTEIN: Objection;</p> <p>9 asked and answered.</p> <p>10 Q. You may answer.</p> <p>11 A. I don't know how to answer that.</p> <p>12 Q. Do you know --</p> <p>13 A. I was home, so ...</p> <p>14 Q. I understand you were home, ma'am.</p> <p>15 How many other people were on that call?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. I'm assuming close to 200.</p> <p>18 Q. Okay. Do you know whether some of</p> <p>19 those people could have been in New Jersey?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I don't know.</p> <p>22 Q. Do you know whether any of those</p> <p>23 people could have been in Connecticut?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't know.</p>	<p>Page 101</p> <p>1 V. HOLMES</p> <p>2 Q. Do you know whether any of those</p> <p>3 people could have been in Illinois?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I don't know.</p> <p>6 Q. Do you know whether any of those</p> <p>7 people could have been in states where it's</p> <p>8 illegal to record them without their consent?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I don't know.</p> <p>11 Q. What investigation did you do as to</p> <p>12 the legality of recording an audio</p> <p>13 conversation before you did it, at the June</p> <p>14 25, 2021 meeting?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I didn't do any investigation.</p> <p>17 Q. After you recorded the meeting, is</p> <p>18 that stored on a file on your phone? Is there</p> <p>19 kind of like an audio file?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I'm not sure.</p> <p>22 Q. Okay. So how did you -- I take it</p> <p>23 you turned it over to be produced to us in</p> <p>24 this lawsuit, right?</p> <p>25 A. Yes.</p>

<p>Page 102</p> <p>1 V. HOLMES</p> <p>2 Q. How did you do that?</p> <p>3 ATTORNEY BRUSTEIN: Objection. I</p> <p>4 am going to direct her not to answer</p> <p>5 that.</p> <p>6 ATTORNEY BOLAND: How she took an</p> <p>7 audio recording and turned it over --</p> <p>8 got it to produce to us?</p> <p>9 ATTORNEY BRUSTEIN: How she</p> <p>10 provided it to her counsel?</p> <p>11 ATTORNEY BOLAND: How she got it to</p> <p>12 somebody to give to us. How she</p> <p>13 produced her own document? You are</p> <p>14 going to instruct her not to answer that</p> <p>15 question, counsel?</p> <p>16 ATTORNEY BRUSTEIN: I am going to</p> <p>17 direct her not to answer how she</p> <p>18 provided it to her counsel.</p> <p>19 Q. How did you get it out the door to</p> <p>20 anyone to be produced in this case?</p> <p>21 A. I don't know how to answer --</p> <p>22 ATTORNEY BRUSTEIN: Objection. I</p> <p>23 am going to again instruct her not to</p> <p>24 answer to the extent it relates to</p> <p>25 attorney-client communication.</p>	<p>Page 103</p> <p>1 V. HOLMES</p> <p>2 A. I can't answer it.</p> <p>3 Q. Okay. Where does the document</p> <p>4 reside, if at all, in your possession? Your</p> <p>5 personal possession? Where does the recording</p> <p>6 reside?</p> <p>7 A. On my phone.</p> <p>8 Q. It's still on your phone?</p> <p>9 A. Yes.</p> <p>10 Q. So there's a -- do you know the</p> <p>11 term native file?</p> <p>12 A. No.</p> <p>13 Q. You don't understand the term</p> <p>14 native file?</p> <p>15 A. (Shaking head.)</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 Q. Okay. But there was a recording</p> <p>18 resident on your phone right now of this, that</p> <p>19 is of the meeting of June 25, 2021?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. Yes.</p> <p>22 Q. Okay. When was the last time you</p> <p>23 listened to it?</p> <p>24 A. I don't remember.</p> <p>25 Q. With whom, other than counsel, if</p>
<p>Page 104</p> <p>1 V. HOLMES</p> <p>2 anyone, have you shared the recording?</p> <p>3 A. I don't remember sharing it.</p> <p>4 Q. Do you use your phone to text?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Have you sent it to anyone</p> <p>7 by text?</p> <p>8 ATTORNEY BRUSTEIN: Objection. To</p> <p>9 the extent that it involves</p> <p>10 attorney-client communication I direct</p> <p>11 her not to answer that.</p> <p>12 Q. Yeah, I don't want to know about</p> <p>13 the lawyers.</p> <p>14 A. I don't remember.</p> <p>15 Q. Have you sent it by email?</p> <p>16 ATTORNEY BRUSTEIN: Objection. The</p> <p>17 same objection. I direct her to exclude</p> <p>18 any attorney-client communication.</p> <p>19 Q. Feel free. I am not asking you</p> <p>20 about the lawyers.</p> <p>21 A. I don't remember.</p> <p>22 Q. Have you taken it and put it on any</p> <p>23 kind of other media other than your phone,</p> <p>24 like a drive or your PC or anything like that?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 105</p> <p>1 V. HOLMES</p> <p>2 A. I'm not sure.</p> <p>3 Q. When did you start the recording</p> <p>4 and when did you end it? In other words did</p> <p>5 you start it before the meeting began and</p> <p>6 ended it after or did you start it at some</p> <p>7 point during it?</p> <p>8 A. To the best of my knowledge, I</p> <p>9 started it before the meeting.</p> <p>10 Q. And what about when it ended?</p> <p>11 A. Until the end.</p> <p>12 Q. Okay. Whom if anyone did you ask</p> <p>13 permission -- whom if anyone on that call did</p> <p>14 you ask their permission to record?</p> <p>15 A. Did I ask permission to record?</p> <p>16 Q. Yes.</p> <p>17 A. No, I did not.</p> <p>18 Q. Whom --</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 Q. -- if anyone on that call did you</p> <p>21 inform that you were recording it?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't remember.</p> <p>24 Q. Since that, other than your lawyers</p> <p>25 here, since that recording was made have you</p>

<p>Page 106</p> <p>1 V. HOLMES</p> <p>2 sought legal counsel as to whether anything</p> <p>3 you did in recording that call might have been</p> <p>4 illegal?</p> <p>5 ATTORNEY BRUSTEIN: Objection. I</p> <p>6 am going to direct her not to answer</p> <p>7 that question.</p> <p>8 Q. Are you going to follow his</p> <p>9 instruction, ma'am?</p> <p>10 A. Yes.</p> <p>11 Q. Okay, that's fine.</p> <p>12 Was anyone present in the -- in a</p> <p>13 room with you when you recorded the call?</p> <p>14 A. To the best of my knowledge, no.</p> <p>15 Q. Were you at home?</p> <p>16 A. Yes.</p> <p>17 Q. At the time that you had recorded</p> <p>18 the call were you aware that there were some</p> <p>19 Four Seasons employees who had transferred or</p> <p>20 moved to different hotels to work in different</p> <p>21 locations?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I'm not sure.</p> <p>24 Q. You don't know if you were aware of</p> <p>25 it or you don't know whether they were?</p>	<p>Page 107</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I don't --</p> <p>4 Q. You can answer, ma'am.</p> <p>5 A. I don't know whether they were.</p> <p>6 Q. Did you attempt to make any effort</p> <p>7 to find out before you recorded that call,</p> <p>8 where the participants might be located?</p> <p>9 ATTORNEY BRUSTEIN: Objection. And</p> <p>10 you just asked two very different</p> <p>11 questions, about transferring and</p> <p>12 participants in the call.</p> <p>13 ATTORNEY BOLAND: Because they are</p> <p>14 two different questions. One was one.</p> <p>15 The second one was the second.</p> <p>16 Q. You may answer.</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't -- I don't know.</p> <p>19 (Defendants' Exhibit 22, letter</p> <p>20 dated March 29, 2023 was marked for</p> <p>21 identification).</p> <p>22 Q. I am handing you, ma'am, what has</p> <p>23 been marked as exhibit 22, which is an exhibit</p> <p>24 of recent vintage, which is a letter dated</p> <p>25 March 29, 2023 from the Brustein law firm,</p>
<p>Page 108</p> <p>1 V. HOLMES</p> <p>2 Mr. Brustein, unsigned, to Ms. Lundy.</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 ATTORNEY BOLAND: There's no</p> <p>5 signature. I didn't see a signature.</p> <p>6 ATTORNEY BRUSTEIN: There's an S</p> <p>7 slash. I'm not sure why that's relevant</p> <p>8 for the record.</p> <p>9 Q. You may answer. Okay. Have you</p> <p>10 ever seen exhibit 22 before? And I recognize</p> <p>11 it's only like yesterday.</p> <p>12 (The witness reviews document.)</p> <p>13 A. No, I am not sure. I didn't see</p> <p>14 this. I don't think so.</p> <p>15 Q. It's dated yesterday.</p> <p>16 A. Oh, okay.</p> <p>17 Q. It's not that long ago.</p> <p>18 A. No then.</p> <p>19 Q. It says I write this Supplemental</p> <p>20 Disclosure Letter, capital S, capital D,</p> <p>21 capital L, right? Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. What's a supplemental disclosure</p> <p>24 letter? Do you have any idea?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 109</p> <p>1 V. HOLMES</p> <p>2 A. No, I have no idea.</p> <p>3 Q. Me neither. Let me direct your</p> <p>4 attention, there was a document -- you see</p> <p>5 here that there is an A on this, August 27,</p> <p>6 2021 settlement agreement and then it goes on?</p> <p>7 I am not trying to say that it doesn't say</p> <p>8 other things. Do you see what I am referring</p> <p>9 to?</p> <p>10 A. Yes.</p> <p>11 Q. And then it has another Bates</p> <p>12 number, Staley v FSR 0304?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 (Defendants' Exhibit 23, Staley v</p> <p>16 FSR 0304 was marked for identification).</p> <p>17 Q. I am handing you, ma'am, what has</p> <p>18 been marked as exhibit 23 which for the record</p> <p>19 is a document bearing the Bates number of</p> <p>20 Staley v FSR 0304.</p> <p>21 A. Are we done with this?</p> <p>22 Q. Yes.</p> <p>23 A. Oh, okay.</p> <p>24 Q. My first question, ma'am: Have you</p> <p>25 ever seen exhibit 23 before?</p>

<p>Page 110</p> <p>1 V. HOLMES</p> <p>2 (The witness reviews document.)</p> <p>3 A. Yes, I have.</p> <p>4 Q. What is it?</p> <p>5 A. It's an agreement between the Four</p> <p>6 Seasons and the employees. Union employees.</p> <p>7 Q. Okay. And you said you had seen it</p> <p>8 before. When did you first see exhibit 23?</p> <p>9 A. I don't remember.</p> <p>10 Q. Well, was it, you know, within the</p> <p>11 last couple of --</p> <p>12 A. Last year.</p> <p>13 Q. You've got to let me finish and I</p> <p>14 have to let you finish otherwise he can't take</p> <p>15 us down, okay? It was within the last year?</p> <p>16 A. Yes.</p> <p>17 Q. All right. When you say within the</p> <p>18 last year, we're in like March of 2023, do you</p> <p>19 believe it was after March of 2022 or before</p> <p>20 then?</p> <p>21 A. Before March 22, I believe.</p> <p>22 Q. Okay. Was it before the original</p> <p>23 complaint was filed in August of 2022?</p> <p>24 A. You're asking me if I saw this</p> <p>25 before the complaint was filed?</p>	<p>Page 111</p> <p>1 V. HOLMES</p> <p>2 Q. Correct. The original complaint.</p> <p>3 The original lawsuit that started off the</p> <p>4 whole case.</p> <p>5 A. I don't remember in what order.</p> <p>6 Q. All right. How did you obtain it?</p> <p>7 A. It was given to me.</p> <p>8 Q. By whom?</p> <p>9 A. By a co-worker.</p> <p>10 Q. Who?</p> <p>11 A. José Dilone.</p> <p>12 Q. Can you help me with the last name?</p> <p>13 A. D, as in David, i-o-n-e.</p> <p>14 Q. And who is Mr. Dilone, other than a</p> <p>15 co-worker?</p> <p>16 A. You want to know his title?</p> <p>17 Q. Yeah.</p> <p>18 A. He was a tailor.</p> <p>19 Q. I'm sorry?</p> <p>20 A. Tailor.</p> <p>21 Q. A tailor? Is he a union employee</p> <p>22 or a non-union employee?</p> <p>23 A. Union.</p> <p>24 Q. Do you have any understanding at</p> <p>25 all as to how Mr. Tailor [sic] obtained</p>
<p>Page 112</p> <p>1 V. HOLMES</p> <p>2 exhibit 23?</p> <p>3 A. No, I don't.</p> <p>4 THE COURT REPORTER: Mr. Tailor?</p> <p>5 Q. Mr. Dilone, the tailor, obtained</p> <p>6 exhibit 23.</p> <p>7 A. No.</p> <p>8 Q. How long have you had exhibit 23</p> <p>9 for?</p> <p>10 A. I don't remember.</p> <p>11 Q. Have you -- just a yes or no</p> <p>12 question and we'll get to the specifics of it.</p> <p>13 Have you turned over documents, searched your</p> <p>14 files for documents to be produced to the</p> <p>15 Warner defendants in this case?</p> <p>16 A. Have I produced documents to turn</p> <p>17 over to the --</p> <p>18 Q. Yeah. Have you taken your files</p> <p>19 and produced documents to be turned over to us</p> <p>20 in this case?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. Yes, I have.</p> <p>23 Q. Okay. Why wasn't this produced</p> <p>24 originally, exhibit 23?</p> <p>25 ATTORNEY BRUSTEIN: Objection. I'm</p>	<p>Page 113</p> <p>1 V. HOLMES</p> <p>2 directing her not to answer.</p> <p>3 ATTORNEY BOLAND: What's the legal</p> <p>4 basis?</p> <p>5 ATTORNEY BRUSTEIN: Attorney-client</p> <p>6 communication. You're asking why</p> <p>7 something wasn't done in preparation --</p> <p>8 ATTORNEY BOLAND: Why she didn't</p> <p>9 produce -- turn this over earlier to be</p> <p>10 produced.</p> <p>11 ATTORNEY BRUSTEIN: I'm directing</p> <p>12 her not to answer the question.</p> <p>13 Q. Are you going to follow his</p> <p>14 instruction?</p> <p>15 ATTORNEY BRUSTEIN: I am going to</p> <p>16 object again to that line of</p> <p>17 questioning.</p> <p>18 ATTORNEY BOLAND: Feel free.</p> <p>19 ATTORNEY BRUSTEIN: I directed her</p> <p>20 not to. Move on.</p> <p>21 ATTORNEY BOLAND: No, feel free.</p> <p>22 Q. Are you going to follow your</p> <p>23 lawyer's instruction?</p> <p>24 ATTORNEY BRUSTEIN: I'm objecting.</p> <p>25 ATTORNEY BOLAND: Let me do this.</p>

<p>Page 114</p> <p>1 V. HOLMES</p> <p>2 Q. Every time your lawyer instructs</p> <p>3 you not to answer, are you going to follow his</p> <p>4 instructions? We'll do it once.</p> <p>5 A. Yes.</p> <p>6 Q. Got it.</p> <p>7 ATTORNEY BRUSTEIN: You can roll</p> <p>8 your eyes.</p> <p>9 ATTORNEY BOLAND: I certainly can.</p> <p>10 Okay.</p> <p>11 Q. When did you turn this over to be</p> <p>12 produced to us in this case?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 Directing her not to answer.</p> <p>15 ATTORNEY BOLAND: Okay. Let's do</p> <p>16 this.</p> <p>17 ATTORNEY BRUSTEIN: Your comments</p> <p>18 under your breath are not really</p> <p>19 necessary.</p> <p>20 ATTORNEY BOLAND: Let's do this.</p> <p>21 They're more than necessary. That was</p> <p>22 23?</p> <p>23 THE COURT REPORTER: Yes, sir.</p> <p>24 THE WITNESS: Are we done with 23?</p> <p>25 ATTORNEY BOLAND: Maybe. But you</p>	<p>Page 115</p> <p>1 V. HOLMES</p> <p>2 can put it to the side.</p> <p>3 (Defendants' Exhibit 24,</p> <p>4 Defendants' First Demand For Production</p> <p>5 of Documents was marked for</p> <p>6 identification).</p> <p>7 Q. I am handing you, ma'am, what has</p> <p>8 been marked as exhibit 24.</p> <p>9 ATTORNEY BRUSTEIN: Thank you for</p> <p>10 throwing this to me.</p> <p>11 ATTORNEY BOLAND: I'm not. I'm</p> <p>12 tossing it to everybody.</p> <p>13 Q. You'll see this is a document</p> <p>14 entitled, ma'am, Defendants' First Demand --</p> <p>15 (Discussion off the record.)</p> <p>16 ATTORNEY BOLAND: Defendants' First</p> <p>17 Demand For Production of Documents.</p> <p>18 Q. Have you ever seen exhibit 24?</p> <p>19 A. I believe so.</p> <p>20 Q. Okay. And you'll see -- when did</p> <p>21 you first see it, ma'am?</p> <p>22 A. I don't remember. But I think it</p> <p>23 was in December.</p> <p>24 Q. Okay. I'm not trying to hide the</p> <p>25 ball on you. If you'll look at page 8. And</p>
<p>Page 116</p> <p>1 V. HOLMES</p> <p>2 you'll see the date of this is November 29,</p> <p>3 2022, right?</p> <p>4 A. Mm-hmm.</p> <p>5 Q. So you feel you saw it sometime</p> <p>6 after that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Did you have an</p> <p>9 understanding, ma'am, that there was a request</p> <p>10 contained in exhibit 24 for you personally to</p> <p>11 search your files to produce documents to the</p> <p>12 Warner defendants?</p> <p>13 A. Yes.</p> <p>14 Q. All right. What did you do to</p> <p>15 search your files?</p> <p>16 A. What did I do in order to</p> <p>17 provide ...</p> <p>18 Q. Yes. Let me step back for a</p> <p>19 second. What understanding did you have, if</p> <p>20 any, of what you were supposed to do to</p> <p>21 produce documents in response to exhibit 24?</p> <p>22 A. Well, I read the demands and if I</p> <p>23 had the documents for the demands, I submitted</p> <p>24 them.</p> <p>25 Q. Okay.</p>	<p>Page 117</p> <p>1 V. HOLMES</p> <p>2 A. Whether --</p> <p>3 Q. I am not trying to cut you off,</p> <p>4 ma'am.</p> <p>5 A. -- with emails or hard copies.</p> <p>6 Whatever I had in my possession.</p> <p>7 Q. And was this the first time that</p> <p>8 you had searched your files for documents that</p> <p>9 might be relevant to the claims in the</p> <p>10 lawsuit?</p> <p>11 A. I believe so.</p> <p>12 Q. Okay. So when you say your files,</p> <p>13 I want to understand what you searched. You</p> <p>14 have two email accounts, am I right about</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. Did you search both of those</p> <p>18 accounts?</p> <p>19 A. Possibly.</p> <p>20 Q. I understand it's possible. I want</p> <p>21 to know if you did or you didn't?</p> <p>22 A. Possibly. I can't answer that</p> <p>23 because I don't know which email the, whatever</p> <p>24 I submitted.</p> <p>25 Q. Fair enough. I'm not asking you</p>

<p>Page 118</p> <p>1 V. HOLMES</p> <p>2 where you found documents in which email</p> <p>3 account. All right. I want to know whether</p> <p>4 you searched both of them for documents?</p> <p>5 A. Yes.</p> <p>6 Q. How did you do that?</p> <p>7 A. I type in, you know, Four Seasons</p> <p>8 or Elizabeth Ortiz or whoever is related, and</p> <p>9 that's how I searched for documents.</p> <p>10 Q. Anything else that -- you typed in</p> <p>11 Four Seasons, you typed in Elizabeth Ortiz.</p> <p>12 Anything --</p> <p>13 A. Or Alexandra, to name a few. I</p> <p>14 don't remember, you know, how I produced the</p> <p>15 documents, as far as, you know, what names I</p> <p>16 went to.</p> <p>17 Q. I want to be fair to you. You did</p> <p>18 sort of a key word type of a search, is that</p> <p>19 fair?</p> <p>20 A. That is fair.</p> <p>21 Q. Okay. And then when you got the</p> <p>22 results back, to the extent you got results</p> <p>23 back and that were in your email account, what</p> <p>24 did you do then?</p> <p>25 ATTORNEY BRUSTEIN: Objection. I</p>	<p>Page 119</p> <p>1 V. HOLMES</p> <p>2 would direct her not to answer to the</p> <p>3 extent that it calls for attorney-client</p> <p>4 communication.</p> <p>5 Q. What did you do, I'm not including</p> <p>6 talking to anybody, I want to know what you</p> <p>7 did once you got the hits back from your</p> <p>8 keyword search? What did you do next to</p> <p>9 produce the documents on your files? I don't</p> <p>10 want to know if you had any conversations with</p> <p>11 your lawyers?</p> <p>12 ATTORNEY BRUSTEIN: Objection. I</p> <p>13 appreciate you respecting the objection.</p> <p>14 I am also going to direct her not to say</p> <p>15 what she did with anything that she</p> <p>16 found. You can again roll your eyes. I</p> <p>17 image when you defend your clients you</p> <p>18 will object in a similar manner.</p> <p>19 ATTORNEY BOLAND: Let's get back to</p> <p>20 the question.</p> <p>21 Q. For step 1, you did a keyword</p> <p>22 search on your email accounts, is fair?</p> <p>23 A. Fair.</p> <p>24 Q. What did you do next?</p> <p>25 A. I read what I found.</p>
<p>Page 120</p> <p>1 V. HOLMES</p> <p>2 Q. You read what you found. Okay.</p> <p>3 Did you produce everything that you found that</p> <p>4 came up from your email search or did you read</p> <p>5 it and select from the things that came up</p> <p>6 those documents that you would produce and</p> <p>7 those that you would not?</p> <p>8 ATTORNEY BRUSTEIN: Objection to</p> <p>9 did she produce everything.</p> <p>10 Q. You can answer.</p> <p>11 A. I don't remember.</p> <p>12 Q. Do you remember the question?</p> <p>13 A. Yeah -- well, I don't understand.</p> <p>14 You're asking me if I produced it or if I ...</p> <p>15 Q. Yeah, I want to know if after you</p> <p>16 did your keyword search, if everything that</p> <p>17 came up responsive was produced, or whether</p> <p>18 you only produced a subset of what was -- that</p> <p>19 came up in the keyword search?</p> <p>20 ATTORNEY BRUSTEIN: Objection. I</p> <p>21 would direct her not to answer what she</p> <p>22 produced to her attorneys. And that's</p> <p>23 what your question is, however cleverly,</p> <p>24 asking.</p> <p>25 ATTORNEY BOLAND: Okay. I take it</p>	<p>Page 121</p> <p>1 V. HOLMES</p> <p>2 though at some point you produced some</p> <p>3 emails? Is that accurate or inaccurate?</p> <p>4 ATTORNEY BRUSTEIN: Objection. I</p> <p>5 am going to again direct you to stop</p> <p>6 asking what she produced to her</p> <p>7 attorneys.</p> <p>8 ATTORNEY BOLAND: She's a plaintiff</p> <p>9 in this case who has an obligation to</p> <p>10 turn over documents. I don't care if</p> <p>11 she turns them over to you or turns them</p> <p>12 over to me directly. I am entitled to</p> <p>13 know what she did to turn over</p> <p>14 responsive documents, period. If you</p> <p>15 want to direct her not to answer, free</p> <p>16 to do that, that's fine.</p> <p>17 ATTORNEY BRUSTEIN: She already</p> <p>18 answered what she did.</p> <p>19 ATTORNEY BOLAND: I want to know</p> <p>20 whether she produced part of what she</p> <p>21 found or produced them all. That's all</p> <p>22 I am trying to figure out, is what we</p> <p>23 got. Do we have a subset or do we have</p> <p>24 everything that she identified. It's</p> <p>25 not a tough question.</p>

<p>Page 122</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: And I am</p> <p>3 directing her not to answer what was</p> <p>4 produced to you. You're asking how the</p> <p>5 end process is made, and that calls for</p> <p>6 attorney-client communication.</p> <p>7 ATTORNEY BOLAND: I'm not asking</p> <p>8 about how the end process is made. I</p> <p>9 want to know what she did. And I'm</p> <p>10 sorry, the fact that she turns over what</p> <p>11 she produces to lawyers is not</p> <p>12 privileged. It's just a fact of life.</p> <p>13 That's how things get done.</p> <p>14 I want to know what she identified</p> <p>15 to be produced to turn over. That's</p> <p>16 what I want to know. What she turned</p> <p>17 over. Whether she culled it or she gave</p> <p>18 me everything that the keywords hit.</p> <p>19 That's all I want to know.</p> <p>20 ATTORNEY BRUSTEIN: I'm objecting.</p> <p>21 Your invariably asking her for</p> <p>22 attorney-client communication.</p> <p>23 ATTORNEY BOLAND: Fine. You're</p> <p>24 instructing her not to answer?</p> <p>25 ATTORNEY BRUSTEIN: Yes.</p>	<p>Page 123</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BOLAND: Fine.</p> <p>3 Q. Let's talk about where else you</p> <p>4 searched for documents, if anywhere, other</p> <p>5 than email. What other sources that you</p> <p>6 have -- you have email is one, maybe personal</p> <p>7 files, whatever -- what else did you search?</p> <p>8 A. I'm not sure. I don't remember.</p> <p>9 Q. How about texts? Did you search</p> <p>10 your texts on your phone for documents that</p> <p>11 might be responsive?</p> <p>12 A. I don't remember.</p> <p>13 Q. Files on your computer; in other</p> <p>14 words electronic files where you have these</p> <p>15 things. Did you search your computer for</p> <p>16 files, for documents that might be responsive?</p> <p>17 A. Are you referring to emails?</p> <p>18 Q. No, no, no. We went through</p> <p>19 emails. I'm sorry. Anything that's in hard</p> <p>20 copy like PDF files or things like that, that</p> <p>21 you meant to save, Word docs, things like</p> <p>22 that?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I believe so.</p> <p>25 Q. How did you do that?</p>
<p>Page 124</p> <p>1 V. HOLMES</p> <p>2 A. By going into ADP.</p> <p>3 Q. Help me out.</p> <p>4 A. I'm sorry. That's like our</p> <p>5 payroll. That's how I was able to submit my</p> <p>6 paychecks.</p> <p>7 Q. Okay, fair enough. You have some</p> <p>8 W-2s and things that you produced?</p> <p>9 A. Right, things that I produced.</p> <p>10 ATTORNEY BRUSTEIN: If he's talking</p> <p>11 don't -- I would ask that you give her</p> <p>12 the same courtesy so the reporter can</p> <p>13 get everything down.</p> <p>14 ATTORNEY BOLAND: Yeah, we talked</p> <p>15 about this. We both do it.</p> <p>16 Q. Other than the payroll records that</p> <p>17 you produced did you do any other search of</p> <p>18 files that you may have stored on a computer,</p> <p>19 and I mean either the hard drive or in the</p> <p>20 cloud, to turn over that would be responsive</p> <p>21 in this case?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I'm not sure. And I don't</p> <p>24 remember.</p> <p>25 Q. Any other locations that you have</p>	<p>Page 125</p> <p>1 V. HOLMES</p> <p>2 in your home or on a device where you -- where</p> <p>3 you could have stored any materials relevant</p> <p>4 to your employment at the Four Seasons or this</p> <p>5 case?</p> <p>6 A. If I have any other devices</p> <p>7 that ...</p> <p>8 Q. For example, do you have like a</p> <p>9 paper file somewhere? You know, keep things</p> <p>10 in paper, like in a drawer or in a file</p> <p>11 cabinet or anything like that?</p> <p>12 A. Yes. I have a folder that I kept</p> <p>13 work-related items.</p> <p>14 Q. Did you search that folder for</p> <p>15 documents that would be responsive to the</p> <p>16 document requests in this case?</p> <p>17 A. I believe so.</p> <p>18 Q. Okay. Did you search that folder,</p> <p>19 beyond the documents that were responsive to</p> <p>20 the requests, at any other time to identify or</p> <p>21 produce documents that were responsive -- that</p> <p>22 would be relevant in the case?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I'm not sure.</p> <p>25 Q. Okay. Any other locations in your</p>

<p>Page 126</p> <p>1 V. HOLMES</p> <p>2 home or in your possession or control where</p> <p>3 you could have stored any documents or</p> <p>4 information relating to your employment at the</p> <p>5 Four Seasons? Let's just start with that,</p> <p>6 broadly.</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I don't remember. I don't -- I'm</p> <p>9 not sure.</p> <p>10 Q. You don't know what files you have</p> <p>11 or where things -- I'm trying to understand?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I have one file.</p> <p>14 Q. One file?</p> <p>15 A. Yeah.</p> <p>16 Q. Okay. When you produced</p> <p>17 documents --</p> <p>18 ATTORNEY BOLAND: Strike that.</p> <p>19 Q. Did you contact your internet --</p> <p>20 your email providers for any archived emails</p> <p>21 that may be responsive to the document</p> <p>22 requests in the case?</p> <p>23 A. I don't understand the question.</p> <p>24 Q. Yeah, sure. You've got I think two</p> <p>25 personal email accounts, right?</p>	<p>Page 127</p> <p>1 V. HOLMES</p> <p>2 A. Yes.</p> <p>3 Q. All right. And they're through</p> <p>4 public providers?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Did you contact either of</p> <p>7 those providers to get documents that might</p> <p>8 have been archived but didn't show up in your</p> <p>9 live file of your email accounts?</p> <p>10 A. No. We're done with exhibit 24?</p> <p>11 Q. We are.</p> <p>12 ATTORNEY BRUSTEIN: I just want to</p> <p>13 point out for your purposes at 1 o'clock</p> <p>14 we have to take a break to call the</p> <p>15 Court. I don't know if you want to</p> <p>16 break before or after that call?</p> <p>17 ATTORNEY BOLAND: Do you need a</p> <p>18 break?</p> <p>19 ATTORNEY BRUSTEIN: I just was</p> <p>20 saying for your purposes.</p> <p>21 ATTORNEY BOLAND: For my purposes,</p> <p>22 I'm good to go. I leave it to these</p> <p>23 folks. Anybody else, too. But they're</p> <p>24 the ones I worry about.</p> <p>25 (Discussion off the record.)</p>
<p>Page 128</p> <p>1 V. HOLMES</p> <p>2 (Defendants' Exhibit 25,</p> <p>3 Plaintiffs' Responses and Objections to</p> <p>4 Defendants' First Request For Production</p> <p>5 of Documents was marked for</p> <p>6 identification).</p> <p>7 Q. I am handing you, ma'am, what has</p> <p>8 been marked as exhibit 25 which for the record</p> <p>9 is a document titled Plaintiffs' Responses and</p> <p>10 Objections to Defendants' First Request For</p> <p>11 Production of Documents.</p> <p>12 Have you ever seen this before,</p> <p>13 ma'am?</p> <p>14 (The witness reviews document.)</p> <p>15 A. Yes, I believe so.</p> <p>16 Q. Okay. I just want to go through --</p> <p>17 A. I'm sorry.</p> <p>18 Q. I didn't mean to interrupt you.</p> <p>19 You'll see if we go to the next to last page</p> <p>20 there's a date of December 29, 2022?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. You have to say yes or no.</p> <p>23 A. Yes.</p> <p>24 Q. That's okay. Did you review</p> <p>25 exhibit 25 prior to December 29, 2022?</p>	<p>Page 129</p> <p>1 V. HOLMES</p> <p>2 A. I believe so.</p> <p>3 Q. Okay. And you understand that this</p> <p>4 was a response to the document we looked at a</p> <p>5 bit earlier that when we served, when the</p> <p>6 Warner defendants served a request for</p> <p>7 production of documents on you and others,</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. You'll see on the first page</p> <p>11 there's general statement and general</p> <p>12 objections, right?</p> <p>13 A. Yes.</p> <p>14 Q. And then if you go to page 4</p> <p>15 there's responses and objections to document</p> <p>16 requests, right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did you read all of the</p> <p>19 objections and responses that are asserted in</p> <p>20 exhibit 25 before it was served in December of</p> <p>21 2022?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't remember the particulars of</p> <p>24 this, but I did see the document.</p> <p>25 Q. I understand you don't remember the</p>

<p>Page 130</p> <p>1 V. HOLMES</p> <p>2 particulars.</p> <p>3 A. Mm-hmm.</p> <p>4 Q. Do you remember reading it?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Did you approve it to be</p> <p>7 served on your behalf?</p> <p>8 ATTORNEY BRUSTEIN: Objection. I</p> <p>9 am directing her not to answer.</p> <p>10 Q. Do you stand by each and every</p> <p>11 objection that your lawyer has made on your</p> <p>12 behalf in exhibit 25?</p> <p>13 A. Yes.</p> <p>14 Q. Thank you.</p> <p>15 (Defendants' Exhibit 26,</p> <p>16 Defendants' First Set of Interrogatories</p> <p>17 was marked for identification).</p> <p>18 Q. Ma'am, I am handing you what has</p> <p>19 been marked as exhibit 26.</p> <p>20 ATTORNEY BRUSTEIN: Can I take a</p> <p>21 two second break? I am just grabbing a</p> <p>22 water.</p> <p>23 ATTORNEY BOLAND: Yeah, yeah. I've</p> <p>24 got to pass out my stuff, first.</p> <p>25 ATTORNEY BRUSTEIN: Thank you.</p>	<p>Page 131</p> <p>1 V. HOLMES</p> <p>2 Q. My first question, ma'am, is have</p> <p>3 you ever seen exhibit 26 before?</p> <p>4 (The witness reviews document.)</p> <p>5 A. Yes.</p> <p>6 Q. And do you remember we used the</p> <p>7 term "interrogatory" before?</p> <p>8 A. Yes, I remember seeing something</p> <p>9 like this.</p> <p>10 Q. When you say "something like this"</p> <p>11 I want to know if you saw it --</p> <p>12 A. Yes, I remember seeing this.</p> <p>13 Q. What is your understanding of what,</p> <p>14 if anything, you were required to do in</p> <p>15 response?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 You can answer.</p> <p>18 A. What was my understanding of this?</p> <p>19 I needed to produce the information.</p> <p>20 Q. Okay. So let me just understand.</p> <p>21 Do you understand that the written</p> <p>22 interrogatories are basically questions for</p> <p>23 you to answer under oath?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Fair enough. So in order to</p>
<p>Page 132</p> <p>1 V. HOLMES</p> <p>2 respond to them did you have an understanding</p> <p>3 of what you personally were required to do?</p> <p>4 A. Yes.</p> <p>5 Q. And what was that?</p> <p>6 A. To answer the questions.</p> <p>7 Q. Okay. And did you do that?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And you understand</p> <p>10 that -- well, strike that. I'll come back to</p> <p>11 that in a second.</p> <p>12 A. Hold on to this?</p> <p>13 Q. No.</p> <p>14 (Defendants' Exhibit 27,</p> <p>15 Plaintiffs' Responses and Objections to</p> <p>16 Warner Defendants' First Set of</p> <p>17 Interrogatories was marked for</p> <p>18 identification).</p> <p>19 Q. Ma'am, I am handing you what has</p> <p>20 been marked as exhibit 27 which for the record</p> <p>21 is a document titled Plaintiffs' Responses and</p> <p>22 Objections to Warner Defendants' First Set of</p> <p>23 Interrogatories. And my first question: Have</p> <p>24 you ever seen exhibit 27 before?</p> <p>25 A. Yes.</p>	<p>Page 133</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. And if you take a look</p> <p>3 ma'am, I think at the next to last page there</p> <p>4 is a verification, right?</p> <p>5 A. Yes.</p> <p>6 Q. And it says -- and this is signed</p> <p>7 by you, correct?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And you say, I have</p> <p>10 read the foregoing Plaintiffs' Responses and</p> <p>11 Objections to Warner Defendants First Set of</p> <p>12 Interrogatories and know the contents thereof</p> <p>13 and you go on. Correct?</p> <p>14 A. Yes.</p> <p>15 Q. So you understood that you were in</p> <p>16 the verification verifying that the answers</p> <p>17 and responses were true and correct, to the</p> <p>18 best of your knowledge, information and</p> <p>19 belief, right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And you understand that's</p> <p>22 kind of like under oath, like we are today?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And did you read each</p> <p>25 and every response to verify that it was true</p>

<p>Page 134</p> <p>1 V. HOLMES</p> <p>2 and correct, to the best of your knowledge,</p> <p>3 information and belief?</p> <p>4 A. Yes.</p> <p>5 Q. All right. And do you see that</p> <p>6 here there are objections that were made as</p> <p>7 well, right? You could see on the very first</p> <p>8 page, General Objections, and then there are</p> <p>9 objections to the interrogatories themselves,</p> <p>10 you could see it on the third page. The very</p> <p>11 first one is an example, Plaintiffs object,</p> <p>12 and then it goes on?</p> <p>13 A. Yes.</p> <p>14 Q. Did you review the objections that</p> <p>15 were being made to the interrogatories on your</p> <p>16 behalf?</p> <p>17 A. Yes.</p> <p>18 Q. You did. Okay. In other words did</p> <p>19 you approve -- strike that. You verified it.</p> <p>20 No problem. I wanted to ask you about one of</p> <p>21 them. If you take a look on the very first</p> <p>22 one, objection 5. It says "Plaintiffs object</p> <p>23 to these interrogatories, which seek</p> <p>24 confidential and proprietary business</p> <p>25 information."</p>	<p>Page 135</p> <p>1 V. HOLMES</p> <p>2 Right?</p> <p>3 A. Right.</p> <p>4 Q. Okay. What business information</p> <p>5 was asked from you in these interrogatories?</p> <p>6 A. I don't remember.</p> <p>7 Q. Was there any?</p> <p>8 A. I don't remember.</p> <p>9 Q. Do you have a business on your own</p> <p>10 of some sort that we asked for documents from?</p> <p>11 Like do you run a business?</p> <p>12 A. No.</p> <p>13 Q. Do you know if Ms. Staley runs a</p> <p>14 business?</p> <p>15 A. I don't know.</p> <p>16 Q. Do you know if Ms. Ivey runs a</p> <p>17 business?</p> <p>18 A. I don't know.</p> <p>19 Q. But as far as you are concerned,</p> <p>20 was there any confidential and proprietary</p> <p>21 business information that our interrogatories</p> <p>22 asked you to divulge?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I don't remember.</p> <p>25 Q. Anyway, do you stand by the</p>
<p>Page 136</p> <p>1 V. HOLMES</p> <p>2 objections that were made on your behalf in</p> <p>3 the answer to interrogatories?</p> <p>4 A. From exhibit 27?</p> <p>5 Q. Yes.</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 (Defendants' Exhibit 28, letter</p> <p>9 dated February 24, 2023 from Brustein</p> <p>10 law firm was marked for identification).</p> <p>11 Q. Ma'am, I am handing you what has</p> <p>12 been marked as exhibit 28 which for the record</p> <p>13 is a letter dated February 24, 2023 from</p> <p>14 Brustein law firm to Ms. Lundy. And I don't</p> <p>15 want to hide the ball on you, ma'am. If you</p> <p>16 take a look at the next to last page I think</p> <p>17 there's a verification from you?</p> <p>18 A. No, there isn't. Oh, this is --</p> <p>19 Q. Next to last page, yes.</p> <p>20 A. Okay.</p> <p>21 Q. All right. So first question:</p> <p>22 Have you ever seen exhibit 28 before?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I'm not sure.</p> <p>25 Q. Well, to be fair, ma'am, in the</p>	<p>Page 137</p> <p>1 V. HOLMES</p> <p>2 declaration --</p> <p>3 A. Wait a second.</p> <p>4 Q. Oh, sure.</p> <p>5 A. You're saying if I saw this portion</p> <p>6 of it or this letter?</p> <p>7 Q. Well, the letter goes on for two</p> <p>8 pages.</p> <p>9 A. Okay. So I did see this portion of</p> <p>10 it.</p> <p>11 Q. The portion on the second page of</p> <p>12 the letter?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 A. But I didn't, you know, ...</p> <p>16 Q. You didn't see the first page of</p> <p>17 the letter?</p> <p>18 A. No.</p> <p>19 Q. All right. Did you verify that the</p> <p>20 information, at least as it relates to you,</p> <p>21 was true and correct?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. Yes.</p> <p>24 Q. All right. So if we look at the</p> <p>25 second page, there's a B, and it says:</p>

<p>Page 138</p> <p>1 V. HOLMES</p> <p>2 Plaintiff Vivian Holmes's estimated damages</p> <p>3 are as follows. And then there's a romanette</p> <p>4 (i), (ii) and (iii), correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Is that a true and accurate</p> <p>7 copy estimation, I know it's an estimated</p> <p>8 amount, of the three categories of damages</p> <p>9 that you seek in this lawsuit?</p> <p>10 A. Yes.</p> <p>11 Q. And you don't seek any other</p> <p>12 categories of damages in this lawsuit other</p> <p>13 than the three categories identified by</p> <p>14 romanette (i), (ii) and (iii), is that</p> <p>15 accurate?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Yes.</p> <p>18 ATTORNEY BOLAND: Does anyone want</p> <p>19 to take five minutes? Because I'm</p> <p>20 switching gears. It's up to you guys.</p> <p>21 ATTORNEY BRUSTEIN: I'm fine.</p> <p>22 ATTORNEY BOLAND: Okay. It's no</p> <p>23 problem. We can keep plowing along. I</p> <p>24 just want to make sure everybody was on</p> <p>25 the same page.</p>	<p>Page 139</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: When you say</p> <p>3 switching gears, we're going to be</p> <p>4 taking a break in about half an hour.</p> <p>5 Q. Ms. Holmes, tell me your</p> <p>6 understanding of the nature of your dispute</p> <p>7 with the defendants in this lawsuit?</p> <p>8 A. Ask me again?</p> <p>9 Q. Yes, sure. Please tell me what is</p> <p>10 your dispute with the defendants in this</p> <p>11 lawsuit?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. My dispute is that it seems that</p> <p>14 the furlough has been indefinite so it leads</p> <p>15 me to believe that we're in a permanent</p> <p>16 layoff. I believe that my WARN Act was</p> <p>17 violated. I believe the company did not act</p> <p>18 in good faith. And if the company looked at</p> <p>19 my records, I have been a model employee. I</p> <p>20 have done above and beyond what was expected</p> <p>21 of me. And I don't feel that I should be</p> <p>22 treated the way I have been. I feel it was</p> <p>23 very dishonest. I went in as a young woman,</p> <p>24 I'm now middle-aged, and I was always a team</p> <p>25 player. And I was instructed that, you know,</p>
<p>Page 140</p> <p>1 V. HOLMES</p> <p>2 I worked for a company that we're all a</p> <p>3 family, and our main goal is to take care of</p> <p>4 the guests and the golden rule, you know, do</p> <p>5 to others as you would like them done to</p> <p>6 yourself, and all of that has gone to the</p> <p>7 garbage.</p> <p>8 I loved the company. Which, you</p> <p>9 know, it's evident, because I was there for so</p> <p>10 long. And I was really looking forward to</p> <p>11 going back. I thought that that's what would</p> <p>12 happen. That's what was said. It's three</p> <p>13 years now.</p> <p>14 Q. If the hotel -- I didn't mean to</p> <p>15 interrupt you. I apologize.</p> <p>16 A. And the company first stated it</p> <p>17 wasn't opening because of COVID. I believed</p> <p>18 that. Then other hotels started opening,</p> <p>19 competitors were opening. Four Seasons did</p> <p>20 not. And they switched from it being due to</p> <p>21 COVID to it being for renovations.</p> <p>22 We have done renovations while</p> <p>23 we've been working. I was a witness to that.</p> <p>24 These are my disputes. I want -- I wanted to</p> <p>25 work. I wanted to go back.</p>	<p>Page 141</p> <p>1 V. HOLMES</p> <p>2 Q. Are you done? I didn't want to</p> <p>3 interrupt you.</p> <p>4 A. Yes.</p> <p>5 Q. If the hotel were to open in the</p> <p>6 next couple of weeks or couple of months would</p> <p>7 you want to go back to work there or not?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. Yes.</p> <p>10 Q. So let's assume, just for the sake</p> <p>11 of argument, ma'am, that renovations get</p> <p>12 concluded and the hotel raps up to staff up</p> <p>13 say within, it could be six months, eight</p> <p>14 months, I don't know, I'm not suggesting a</p> <p>15 time period. If the opportunity to be</p> <p>16 recalled arises, is that something you want to</p> <p>17 be offered to you?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Do you know whether that</p> <p>21 would be the case for, you know, every other</p> <p>22 employee who like you, is on furlough?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I can't answer that question for</p> <p>25 anyone else.</p>

<p>Page 142</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. But you would like to be</p> <p>3 called back if and when the hotel reopens?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. Yes.</p> <p>6 Q. So the beginning, and tell me if</p> <p>7 I'm wrong, of the story that leads up to the</p> <p>8 dispute happens back when COVID struck in</p> <p>9 early 2020?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. Could you repeat that?</p> <p>12 Q. Yeah, sure. You are complaining, I</p> <p>13 think, and tell me if I'm wrong, ma'am, about</p> <p>14 events that have unfolded since COVID pandemic</p> <p>15 struck in early 2020?</p> <p>16 A. I'm not complaining about events</p> <p>17 that happened during COVID.</p> <p>18 Q. Okay. All right. So what events</p> <p>19 are you -- are the focus of your complaint?</p> <p>20 A. My focus is that other hotels have</p> <p>21 opened and the Four Seasons used COVID as an</p> <p>22 excuse.</p> <p>23 Q. During the COVID -- okay. I want</p> <p>24 to get a date on it, if I could. COVID</p> <p>25 started in about March of 2020; fair?</p>	<p>Page 143</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. Fair.</p> <p>4 Q. Okay. Taking that as the starting</p> <p>5 point, when is it that you think the Four</p> <p>6 Seasons started to do something, or the</p> <p>7 defendants -- sorry -- the defendants started</p> <p>8 to do something wrong that you are complaining</p> <p>9 about?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. Roughly about a year after.</p> <p>12 Q. Okay. All right. I want to take a</p> <p>13 look at some things. Let's look at something</p> <p>14 first.</p> <p>15 (Defendants' Exhibit 29, Staley</p> <p>16 v FSR 0001 through 89 was marked for</p> <p>17 identification).</p> <p>18 Q. Ma'am, I am handing you what has</p> <p>19 been marked as exhibit 29 which for the record</p> <p>20 is a collection of documents Bates-numbered</p> <p>21 Staley v FSR 0001 through 89.</p> <p>22 And I want you to leaf through</p> <p>23 this, ma'am, and tell me if you recognize</p> <p>24 these documents -- they were represented to us</p> <p>25 as coming from you. I'm just going to tell</p>
<p>Page 144</p> <p>1 V. HOLMES</p> <p>2 you that.</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 Q. I don't know if that's true or not.</p> <p>5 ATTORNEY BRUSTEIN: Objection. I</p> <p>6 don't know who made that representation.</p> <p>7 But --</p> <p>8 ATTORNEY BOLAND: I think there</p> <p>9 were Post-Its on them when they were</p> <p>10 turned over to us in our copy.</p> <p>11 (The witness reviews document.)</p> <p>12 ATTORNEY BRUSTEIN: To the extent</p> <p>13 that there were attorney notes on</p> <p>14 documents that you received, we would</p> <p>15 ask for them to be clawed back and</p> <p>16 turned back over. We're not aware of</p> <p>17 any Post-It notes. And I'm assuming the</p> <p>18 electronic copy that was provided to you</p> <p>19 did not include any Post-It notes.</p> <p>20 ATTORNEY BOLAND: The electronic</p> <p>21 copy did not. I am going by the thing</p> <p>22 that you're actually telling us, which</p> <p>23 plaintiff produced which documents.</p> <p>24 ATTORNEY BRUSTEIN: And I am just</p> <p>25 asking to claw them back.</p>	<p>Page 145</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BOLAND: Okay. We'll</p> <p>3 consider your request.</p> <p>4 (The witness reviews document.)</p> <p>5 A. A lot of these documents I really</p> <p>6 can't see. I recognize some. And I'm not</p> <p>7 sure that I turned in all of these.</p> <p>8 Q. Okay. I am going to show you -- I</p> <p>9 didn't mean to interrupt you. I apologize.</p> <p>10 Please finish.</p> <p>11 A. That's okay.</p> <p>12 Q. I am going to show you some</p> <p>13 documents from time to time and then you could</p> <p>14 tell me if it's a document that you don't</p> <p>15 have, or we'll ask you if it's a document that</p> <p>16 you have and you turned over. Okay?</p> <p>17 A. Sure.</p> <p>18 Q. All right.</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 Q. I think you mentioned, ma'am, that</p> <p>21 you believe you were a valued employee?</p> <p>22 A. Yes.</p> <p>23 Q. And the Four Seasons had</p> <p>24 actually -- the defendants, the hotel, had</p> <p>25 actually told you that, right?</p>

<p>Page 146</p> <p>1 V. HOLMES</p> <p>2 A. Yes, they had.</p> <p>3 ATTORNEY BOLAND: What's my next</p> <p>4 one? 30?</p> <p>5 THE COURT REPORTER: 30, yes.</p> <p>6 ATTORNEY BRUSTEIN: Are we done</p> <p>7 with this?</p> <p>8 ATTORNEY BOLAND: You can put it to</p> <p>9 the side. If you can't identify those</p> <p>10 as the docs you turned over.</p> <p>11 (Defendants' Exhibit 30, letter,</p> <p>12 Staley v FSR 0281 was marked for</p> <p>13 identification).</p> <p>14 Q. I am handing you, ma'am, what has</p> <p>15 been marked as exhibit 30, which for the</p> <p>16 record is a document bearing the Bates number</p> <p>17 Staley v FSR 0281.</p> <p>18 And do you recognize exhibit 30,</p> <p>19 ma'am?</p> <p>20 A. Yes.</p> <p>21 Q. Is this one of the documents you</p> <p>22 turned over in the case?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And this was a</p> <p>25 laudatory note about your performance back in</p>	<p>Page 147</p> <p>1 V. HOLMES</p> <p>2 2016, right?</p> <p>3 A. That is correct.</p> <p>4 Q. Okay. Help me out a little bit.</p> <p>5 You were hired I think in 1998, did you say</p> <p>6 that earlier, at the Four Seasons?</p> <p>7 A. That's when I was hired.</p> <p>8 Q. What were your jobs over time?</p> <p>9 A. What were my positions during the</p> <p>10 time --</p> <p>11 Q. Yeah.</p> <p>12 A. Okay. I started as a housekeeper</p> <p>13 administrative assistant. Then I became a</p> <p>14 floor supervisor. And then I became a rooms</p> <p>15 division administrative assistant.</p> <p>16 Q. Can you give me some approximate</p> <p>17 dates on those changes? So in 1998</p> <p>18 housekeeping, right?</p> <p>19 A. Mm-hmm.</p> <p>20 Q. Okay.</p> <p>21 A. Roughly I became a floor supervisor</p> <p>22 in two thousand and -- maybe 2000. 2001.</p> <p>23 Q. Okay. We're not going to hold you</p> <p>24 to it.</p> <p>25 A. Okay. And then I became a rooms</p>
<p>Page 148</p> <p>1 V. HOLMES</p> <p>2 division, maybe about 2004.</p> <p>3 Q. Okay. So we're looking at exhibit</p> <p>4 30. And that was the job that you had when</p> <p>5 you went on furlough?</p> <p>6 A. Yes.</p> <p>7 Q. All right. And so this letter that</p> <p>8 we have here was from that time period when</p> <p>9 you were in the position that you held at the</p> <p>10 time of being furloughed?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And is this what you were</p> <p>13 talking about earlier when you say you believe</p> <p>14 that you were a valued employee? This type of</p> <p>15 an example?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Not just this.</p> <p>18 Q. Not just that. I'm not trying to</p> <p>19 suggest it's only that. Is this an example?</p> <p>20 A. It's an example.</p> <p>21 Q. Okay.</p> <p>22 (Defendants' Exhibit 31, Staley</p> <p>23 v FSR 045 was marked for</p> <p>24 identification).</p> <p>25 Q. So if that is a document that you</p>	<p>Page 149</p> <p>1 V. HOLMES</p> <p>2 believe you turned over, ma'am, where did you</p> <p>3 find that in your possession?</p> <p>4 A. In my folder.</p> <p>5 Q. In the folder, okay. I am handing</p> <p>6 you now what has been marked as exhibit 31</p> <p>7 which for the record has two documents</p> <p>8 together. The top page you cannot read it, is</p> <p>9 Staley v FSR 045. And the bottom one I do</p> <p>10 not -- it has something that I cannot read the</p> <p>11 Bates number on because it's on something</p> <p>12 else. I will represent to you, ma'am, that</p> <p>13 these lawyers turned this over twice. Once it</p> <p>14 wasn't easy to read. The second one I think</p> <p>15 is easier to read.</p> <p>16 A. Okay.</p> <p>17 Q. And what is -- what do we have here</p> <p>18 in the two documents that comprise exhibit 31?</p> <p>19 A. This is one of many cards that I</p> <p>20 received from my director, showing</p> <p>21 appreciation of my work.</p> <p>22 Q. Okay. You had told me a little bit</p> <p>23 earlier, and I don't mean to misquote you,</p> <p>24 that you felt you weren't treated right at</p> <p>25 least at the time period about a year after</p>

<p>Page 150</p> <p>1 V. HOLMES</p> <p>2 COVID struck and then moving forward.</p> <p>3 Is that accurate or inaccurate?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. Yes, it's accurate.</p> <p>6 Q. Were you treated any differently</p> <p>7 than any other of the non-union employees at</p> <p>8 the hotel that were also placed on furlough?</p> <p>9 A. Yes.</p> <p>10 Q. Who were you treated differently</p> <p>11 than?</p> <p>12 A. I was treated differently from</p> <p>13 other non-union employees that are getting</p> <p>14 \$500 per week from ownership and I was</p> <p>15 excluded. When I asked why was I excluded I</p> <p>16 was told, by Elizabeth Ortiz, that ownership</p> <p>17 excluded positions as myself.</p> <p>18 Q. Okay. Any other --</p> <p>19 A. Which I'm non-union hourly. I'm</p> <p>20 not management.</p> <p>21 Q. Understood. Any other way in which</p> <p>22 you were treated differently than the other</p> <p>23 non-union employees who were put on furlough?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Tell me what that is?</p>	<p>Page 151</p> <p>1 V. HOLMES</p> <p>2 A. Other employees were offered task</p> <p>3 force or were offered to be relocated.</p> <p>4 Q. And you weren't offered either of</p> <p>5 those?</p> <p>6 A. No.</p> <p>7 Q. Okay. Any other ways that you were</p> <p>8 treated differently than other non-union</p> <p>9 employees who were also furloughed?</p> <p>10 A. That's about all I can remember.</p> <p>11 Q. Had you been given the \$500 per</p> <p>12 week and given the chance to go on a task</p> <p>13 force or relocated, would you have any</p> <p>14 complaints with the Four Seasons or the</p> <p>15 defendants in this case today?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Probably not.</p> <p>18 ATTORNEY BRUSTEIN: Can we take a</p> <p>19 five-minute break?</p> <p>20 ATTORNEY BOLAND: Yes.</p> <p>21 ATTORNEY BRUSTEIN: Thanks.</p> <p>22 ---</p> <p>23 (Recess from 12:40 to 12:57.)</p> <p>24 ---</p> <p>25 ATTORNEY BRUSTEIN: Before we</p>
<p>Page 152</p> <p>1 V. HOLMES</p> <p>2 continue I think Ms. Holmes just wanted</p> <p>3 to expand or correct her prior answer.</p> <p>4 ATTORNEY BOLAND: We'll go on the</p> <p>5 record?</p> <p>6 THE COURT REPORTER: Yes.</p> <p>7 Q. Ma'am, do you have something you</p> <p>8 want to change from your prior answer?</p> <p>9 A. Yes. As far as me being paid the</p> <p>10 \$500 a week and task force and possibly</p> <p>11 relocation or the option to or being offered,</p> <p>12 the case is not about that. The case is about</p> <p>13 the WARN Act. My rights were violated. I</p> <p>14 didn't get proper notice for the WARN Act. I</p> <p>15 didn't -- I wasn't offered severance pay. So</p> <p>16 it's about, you know, no-fault separation pay.</p> <p>17 That's what I was -- I was violated from that.</p> <p>18 Q. Okay. So number 1, and I don't</p> <p>19 want to know the substance, you had a</p> <p>20 conversation with your lawyer on the break,</p> <p>21 did you not? Just yes or no.</p> <p>22 A. Yes.</p> <p>23 Q. And after that conversation you</p> <p>24 came back and gave me that changed answer,</p> <p>25 correct?</p>	<p>Page 153</p> <p>1 V. HOLMES</p> <p>2 A. No.</p> <p>3 Q. You didn't come -- it didn't follow</p> <p>4 the break that we just took?</p> <p>5 A. Not quite. He asked me --</p> <p>6 ATTORNEY BRUSTEIN: Objection,</p> <p>7 no --</p> <p>8 ATTORNEY BOLAND: Even I'm with you</p> <p>9 on that one.</p> <p>10 THE WITNESS: Sorry.</p> <p>11 ATTORNEY BRUSTEIN: He's asking if</p> <p>12 after the break you are now answering a</p> <p>13 question. He's not talking about --</p> <p>14 A. I am answering a break -- I am</p> <p>15 answering a question after the break, yes.</p> <p>16 Q. Fair. You're not telling me that</p> <p>17 anything you said before was untrue?</p> <p>18 A. Absolutely not.</p> <p>19 Q. Okay. When did you first learn</p> <p>20 about the coronavirus, the COVID pandemic?</p> <p>21 Not the pandemic. The COVID outbreak. That</p> <p>22 COVID had been discovered. When did you first</p> <p>23 learn that?</p> <p>24 A. In about February or March.</p> <p>25 Q. February or March? Okay. At some</p>

<p>Page 154</p> <p>1 V. HOLMES</p> <p>2 point the hotel -- well, strike that.</p> <p>3 The hotel stayed open initially</p> <p>4 when COVID was first discovered, did it not?</p> <p>5 A. For about two weeks.</p> <p>6 Q. Yes. When I say open, I mean open</p> <p>7 to public, the public, right?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And then after that for a</p> <p>10 while the hotel was no longer taking the</p> <p>11 public in as guests, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. But the hotel remained open</p> <p>14 in terms of workers and people going to work</p> <p>15 in some fashion, correct?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Yes, but at what -- what is your</p> <p>18 time frame? What are you ...</p> <p>19 Q. Right about the time that COVID --</p> <p>20 strike that. There was a time period at which</p> <p>21 the hotel stopped taking guests in from the</p> <p>22 public, right?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. But at that same time</p> <p>25 period, the time I'm referencing, the hotel</p>	<p>Page 155</p> <p>1 V. HOLMES</p> <p>2 itself as a business with employees still</p> <p>3 remained open, right?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. Yes, for a few weeks.</p> <p>6 Q. Well, in fact you went in and you</p> <p>7 were a worker that worked after the hotel</p> <p>8 itself was no longer taking guests?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. That's all I was getting at.</p> <p>11 (Defendants' Exhibit 32, Staley</p> <p>12 v FSR 0028 was marked for</p> <p>13 identification).</p> <p>14 Q. I am handing you, ma'am, what has</p> <p>15 been marked as exhibit 32, which for the</p> <p>16 record is a document bearing the Bates number</p> <p>17 Staley v FSR 0028. Do you recognize exhibit</p> <p>18 32, ma'am?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And is this one of the documents</p> <p>21 that you found in your files to produce in</p> <p>22 this case?</p> <p>23 A. Yes.</p> <p>24 Q. And you recall that at a point in</p> <p>25 time workers had to be deemed seasonal to be</p>
<p>Page 156</p> <p>1 V. HOLMES</p> <p>2 allowed to go out and about and go to work,</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. And you were one of those folks who</p> <p>6 worked at the hotel who was deemed essential</p> <p>7 at that point in time, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And there were others, were there</p> <p>10 not, that were deemed essential and went into</p> <p>11 work at that point in time, correct?</p> <p>12 A. Correct.</p> <p>13 Q. All right. How many?</p> <p>14 A. I am not sure.</p> <p>15 Q. Do you have any idea?</p> <p>16 A. No, I don't.</p> <p>17 Q. Who were they?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. I don't remember.</p> <p>20 Q. Do you have any names?</p> <p>21 A. Maybe one. What was her name?</p> <p>22 Rasha, and I don't remember her last name.</p> <p>23 Q. What did Rasha do?</p> <p>24 A. She was the assistant director.</p> <p>25 Q. If you have in your file, there was</p>	<p>Page 157</p> <p>1 V. HOLMES</p> <p>2 exhibit 18, ma'am. It was a declaration that</p> <p>3 you had signed. It's a Declaration of Vivian</p> <p>4 Holmes, Document 55. If you have them in</p> <p>5 order it would have been exhibit 18. It's a</p> <p>6 one pager.</p> <p>7 A. Yes.</p> <p>8 Q. And you'll see, ma'am, in your</p> <p>9 declaration --</p> <p>10 A. Mm-hmm.</p> <p>11 Q. -- in paragraph 2 -- you have to</p> <p>12 say yes or no?</p> <p>13 A. Yes.</p> <p>14 Q. If you are going to say it out</p> <p>15 loud.</p> <p>16 A. I got you.</p> <p>17 Q. You say: Beginning in March of</p> <p>18 2020, I went from working 40 hours per week at</p> <p>19 the Four Seasons Hotel New York to working</p> <p>20 less than 17 hours per week there, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And then you say "I have not worked</p> <p>23 more than 17 hours per week at the Four</p> <p>24 Seasons Hotel New York since my hours were</p> <p>25 reduced in March of 2020, correct?</p>

<p>Page 158</p> <p>1 V. HOLMES</p> <p>2 A. Correct.</p> <p>3 Q. And when you say March of 2020, is</p> <p>4 that when you became an essential employee who</p> <p>5 went in while others, you know, did not? Is</p> <p>6 that the time period when your hours were cut</p> <p>7 down?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. My hours were cut in March 2020,</p> <p>10 yes.</p> <p>11 Q. Yes, they were cut down and you</p> <p>12 were still at work -- you still were working</p> <p>13 for a bit of time because you were deemed</p> <p>14 essential?</p> <p>15 A. One second?</p> <p>16 Q. Sure.</p> <p>17 A. This one was given to me just to go</p> <p>18 in for one day.</p> <p>19 Q. Okay.</p> <p>20 A. That's it.</p> <p>21 Q. Okay. Go ahead?</p> <p>22 A. Because they needed for me to wrap</p> <p>23 up everything that needed to -- to put the</p> <p>24 payroll in position.</p> <p>25 Q. Okay. And so you didn't have to go</p>	<p>Page 159</p> <p>1 V. HOLMES</p> <p>2 into the hotel to do that?</p> <p>3 A. I went in. That's why I got the</p> <p>4 letter. There was one day. I believe it was</p> <p>5 a Thursday, March 26 of 2020.</p> <p>6 Q. Okay.</p> <p>7 A. It was one day that they gave me</p> <p>8 this.</p> <p>9 ATTORNEY BRUSTEIN: Just to clarify</p> <p>10 for the record, she's referencing</p> <p>11 exhibit 32. Just because you had been</p> <p>12 asking about an earlier exhibit.</p> <p>13 ATTORNEY BOLAND: Yeah, sure.</p> <p>14 Exhibit 32. Thank you.</p> <p>15 Q. So the designation as an essential</p> <p>16 employee was just to allow you to go into the</p> <p>17 hotel for one day?</p> <p>18 A. Right. Because you couldn't come</p> <p>19 into the city unless you had -- right.</p> <p>20 Q. I think I asked you this before but</p> <p>21 I want to make sure now I have it correct,</p> <p>22 because you were only in for one day.</p> <p>23 To your knowledge, were there other</p> <p>24 individuals that were back at the hotel</p> <p>25 working because they, too, had been designated</p>
<p>Page 160</p> <p>1 V. HOLMES</p> <p>2 as essential?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 Q. In other words on premises?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. Was there other employees that was</p> <p>7 working inside the building during this time?</p> <p>8 Q. Yes.</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And you were only in one for</p> <p>11 day. So is your experience of seeing other</p> <p>12 people on premises after March 20 of 2020, is</p> <p>13 that experience solely because from that one</p> <p>14 day or were you back in the hotel at any time</p> <p>15 after that?</p> <p>16 A. You want to know was I aware that</p> <p>17 there were other people in the building?</p> <p>18 Q. I want to know if your experience</p> <p>19 of knowing how many people were in the</p> <p>20 building or having seen them is based on that</p> <p>21 one day or were you there any other days after</p> <p>22 that?</p> <p>23 A. I don't know --</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 Q. You can answer.</p>	<p>Page 161</p> <p>1 V. HOLMES</p> <p>2 A. I don't know how many people were</p> <p>3 in the hotel, I said that to you.</p> <p>4 Q. No, I understand that, ma'am. I</p> <p>5 want to know just if your observation, your</p> <p>6 personal observation is based on the one day</p> <p>7 that you went in or whether you may have</p> <p>8 stopped back into the hotel at any days after</p> <p>9 that?</p> <p>10 A. My observation is because I was</p> <p>11 doing payroll for employees in the hotel from</p> <p>12 home one day per week.</p> <p>13 Q. I see. So you were doing payroll</p> <p>14 of employees from home, so you understood that</p> <p>15 there were employees still working?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Do you know whether they</p> <p>18 were working at the hotel or some people were</p> <p>19 working remotely or a combination?</p> <p>20 A. A combination.</p> <p>21 Q. How many people continued to work?</p> <p>22 A. I'm not sure.</p> <p>23 Q. How many hours did those</p> <p>24 individuals continue to work per week?</p> <p>25 A. From the people I was paying? I</p>

<p>Page 162</p> <p>1 V. HOLMES</p> <p>2 can only answer that.</p> <p>3 Q. Okay.</p> <p>4 A. About three days a week.</p> <p>5 Q. And when you say the people you</p> <p>6 were paying, what do you mean by that?</p> <p>7 A. Employees that were in my</p> <p>8 department, that I'm responsible to pay their</p> <p>9 wages.</p> <p>10 Q. I see. So your responsibilities</p> <p>11 with respect to payroll does not extend to</p> <p>12 everyone employed by the hotel, but just the</p> <p>13 folks within your area, is that fair?</p> <p>14 A. You're asking me if I only paid the</p> <p>15 people in my department?</p> <p>16 Q. Yes.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Outside of your department</p> <p>19 how many, if you know, people continued to</p> <p>20 work at the hotel after March of 2020? March</p> <p>21 20, 2020?</p> <p>22 A. (No response.)</p> <p>23 Q. By working at the hotel I mean</p> <p>24 either on premises or remotely.</p> <p>25 A. I know a few.</p>	<p>Page 163</p> <p>1 V. HOLMES</p> <p>2 Q. You know a few who did?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. Who do you know who did?</p> <p>5 A. Sharon Brambrut. Elizabeth Ortiz.</p> <p>6 Rasha.</p> <p>7 Q. Okay.</p> <p>8 A. That's all I could remember for</p> <p>9 now.</p> <p>10 Q. Okay. Those are people you know.</p> <p>11 Do you have any understanding of beyond these</p> <p>12 how many folks employed by the hotel, and</p> <p>13 let's say with non-union folks, employed by</p> <p>14 the hotel continued to work either on site or</p> <p>15 remotely or a combination after March 20,</p> <p>16 2020?</p> <p>17 A. Marie Kirkland. A guy named Brian</p> <p>18 but I don't know his last name. I don't</p> <p>19 remember the rest.</p> <p>20 Q. Okay. Beyond the people you</p> <p>21 remember, do you have any idea of whether</p> <p>22 there are folks that you weren't aware of,</p> <p>23 you're not personally aware of who nonetheless</p> <p>24 continued to work at the hotel either remotely</p> <p>25 or on site after March 20 of 2020?</p>
<p>Page 164</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I'm not sure. I don't remember.</p> <p>4 Q. You don't know?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 Q. With respect to any of the folks</p> <p>7 that you mentioned here, do you know how many</p> <p>8 hours did they continue to work per week?</p> <p>9 A. I'm not sure.</p> <p>10 Q. When you say you're not sure do you</p> <p>11 have an idea or do you just not know?</p> <p>12 A. I'm assuming three to four days.</p> <p>13 Q. But you don't know?</p> <p>14 A. But I don't know.</p> <p>15 Q. Is it accurate, ma'am, that there</p> <p>16 was a general, in your impression, uncertainty</p> <p>17 about how long COVID would last when it first</p> <p>18 broke out, and the hotel shut down to external</p> <p>19 operations in March of 2020?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. Could you repeat that, please?</p> <p>22 Q. Yeah. Did you have uncertainty in</p> <p>23 your mind about how long COVID would last, how</p> <p>24 long the threat would last around the time the</p> <p>25 hotel stopped taking in guests from the public</p>	<p>Page 165</p> <p>1 V. HOLMES</p> <p>2 in March of 2020?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. No, I didn't know.</p> <p>5 Q. You didn't know?</p> <p>6 A. No.</p> <p>7 Q. So you had no idea whether it would</p> <p>8 be a week, two weeks, three months or</p> <p>9 whatever?</p> <p>10 A. Well, we were first led to believe</p> <p>11 that we were just going to be home for two</p> <p>12 weeks. That's what our letter said.</p> <p>13 Q. And I'm not suggesting about what</p> <p>14 the Four Seasons or the folks at the Four</p> <p>15 Seasons were saying. I just want to know</p> <p>16 whether you personally, in your personal</p> <p>17 experience?</p> <p>18 A. Personally I didn't know. I don't</p> <p>19 know.</p> <p>20 Q. You had no idea?</p> <p>21 A. I had no idea.</p> <p>22 Q. Were you hopeful that it would end</p> <p>23 quickly?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. Of course.</p>

<p>Page 166</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. Over time did the hope that</p> <p>3 it would end quickly fade?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. Yes. Somewhat.</p> <p>6 Q. Okay. Initially what was your, if</p> <p>7 you have one, what was your personal</p> <p>8 expectation as to how long COVID would be</p> <p>9 shutting down operations like the hotel?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't know. I didn't know.</p> <p>12 Q. No, I know you didn't know. Did</p> <p>13 you have any expectation? Any belief?</p> <p>14 A. No.</p> <p>15 Q. It was all still uncertain?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Yes.</p> <p>18 (Defendants' Exhibit 33, Staley</p> <p>19 v FSR 0204 to 0207 was marked for</p> <p>20 identification).</p> <p>21 Q. Ms. Holmes, I am handing you what</p> <p>22 has been marked as exhibit 33, which for the</p> <p>23 record is a document bearing the Bates number</p> <p>24 Staley v FSR 0204 to 0207. First question,</p> <p>25 ma'am, is have you ever seen exhibit 33</p>	<p>Page 167</p> <p>1 V. HOLMES</p> <p>2 before?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And I will represent to you</p> <p>5 that in the section of documents that I</p> <p>6 thought was produced by you, and I may be</p> <p>7 wrong, this was not contained in there.</p> <p>8 Is this a document that you found</p> <p>9 in your files and turned over to be produced</p> <p>10 in this case?</p> <p>11 ATTORNEY BRUSTEIN: Objection. Do</p> <p>12 not answer.</p> <p>13 Q. Is this a document that you found</p> <p>14 in your files?</p> <p>15 (The witness reviews document.)</p> <p>16 Q. Is this a document you found in</p> <p>17 your files?</p> <p>18 A. I don't remember.</p> <p>19 Q. You don't remember?</p> <p>20 A. (Coughing).</p> <p>21 Q. Strike that. You told me. You</p> <p>22 have seen this before, right?</p> <p>23 A. I don't remember now. I remember</p> <p>24 seeing a portion of it but now some of it is</p> <p>25 kind of vague. I don't remember.</p>
<p>Page 168</p> <p>1 V. HOLMES</p> <p>2 Q. Did you --</p> <p>3 A. But I definitely remember this</p> <p>4 second form.</p> <p>5 Q. Oh, okay.</p> <p>6 A. Because I used it in order to file</p> <p>7 for unemployment.</p> <p>8 Q. Okay. So fair enough. The</p> <p>9 hotel -- the Four Seasons had provided you</p> <p>10 with some instructions to help you get into</p> <p>11 unemployment benefits after COVID hit, right?</p> <p>12 A. Right.</p> <p>13 Q. Okay. If you look at the very</p> <p>14 first page, ma'am, you'll see this is dated</p> <p>15 April 9, 2020, right?</p> <p>16 A. Yes.</p> <p>17 Q. And I want to know, I am going to</p> <p>18 ask you some things here and I want to know if</p> <p>19 it's consistent with your recollection and</p> <p>20 your understanding of the facts at the time.</p> <p>21 Okay?</p> <p>22 A. Mm-hmm.</p> <p>23 Q. So it says on Hotel Operations, it</p> <p>24 says on March 20, 2020 and it goes on, and it</p> <p>25 says made the decision to temporarily suspend</p>	<p>Page 169</p> <p>1 V. HOLMES</p> <p>2 most of the hotel operations. Is that</p> <p>3 consistent with your understanding and</p> <p>4 recollection, ma'am?</p> <p>5 A. Yes.</p> <p>6 Q. And it says at that time we had</p> <p>7 communicated our hope was to return to a full</p> <p>8 hotel operation on April 15, 2020. Is that</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Is that consistent with your</p> <p>12 recollection at the time as well?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Then it talks about shortly</p> <p>16 thereafter our owner Ty Warner responded to</p> <p>17 the governor's call to action and it goes on.</p> <p>18 Feel free to read to that to yourself, ma'am.</p> <p>19 I don't want to waste the pages, but go ahead</p> <p>20 and read it.</p> <p>21 ATTORNEY BRUSTEIN: Where are you</p> <p>22 asking her to read?</p> <p>23 ATTORNEY BOLAND: "Shortly</p> <p>24 thereafter, our owner, Ty Warner," that</p> <p>25 paragraph.</p>

<p>Page 170</p> <p>1 V. HOLMES</p> <p>2 (The witness reviews document.)</p> <p>3 A. Okay.</p> <p>4 ATTORNEY BRUSTEIN: You want her to</p> <p>5 read just that paragraph, "our owner Ty</p> <p>6 Warner"?</p> <p>7 ATTORNEY BOLAND: Yes.</p> <p>8 A. Okay, I read it.</p> <p>9 Q. Okay. And is it accurate and</p> <p>10 consistent with your recollection that at some</p> <p>11 point in time the hotel started to take in, I</p> <p>12 don't want to call them first responders, but</p> <p>13 basically medical staff and whatnot and house</p> <p>14 them, the people who were working on the front</p> <p>15 lines of the pandemic, right?</p> <p>16 A. I do remember that.</p> <p>17 Q. Okay. In terms of the group of</p> <p>18 folks for whom you do the payroll, did the</p> <p>19 number of people working on site at the hotel,</p> <p>20 let's start with on site, increase as a result</p> <p>21 of them?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't remember.</p> <p>24 Q. How many people, in terms of the</p> <p>25 folks you were doing the payroll for, were</p>	<p>Page 171</p> <p>1 V. HOLMES</p> <p>2 back working in the hotel during the time</p> <p>3 period that it was open for the medical staff</p> <p>4 to stay?</p> <p>5 ATTORNEY BRUSTEIN: Objection. Are</p> <p>6 you referring to union, non-union or</p> <p>7 everyone?</p> <p>8 ATTORNEY BOLAND: People she's</p> <p>9 responsible for.</p> <p>10 A. I don't remember.</p> <p>11 Q. Of the people you were responsible</p> <p>12 for, how many hours per week were they working</p> <p>13 during the time period that the hotel was</p> <p>14 housing the medical staff working on the front</p> <p>15 lines of the pandemic?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Estimated, about twenty-four hours.</p> <p>18 Q. That's estimated?</p> <p>19 A. No, twenty-one. About twenty-one</p> <p>20 hours.</p> <p>21 Q. And you don't know how many people</p> <p>22 that was?</p> <p>23 A. I don't remember.</p> <p>24 Q. All right. When you say estimated</p> <p>25 about twenty-one, were some more, some less?</p>
<p>Page 172</p> <p>1 V. HOLMES</p> <p>2 Was everybody at the same amount?</p> <p>3 A. Some less, and maybe some more.</p> <p>4 Q. And did the composition of people</p> <p>5 change over the time period that the hotel was</p> <p>6 housing the medical staff? In other words was</p> <p>7 it the same people who started when they</p> <p>8 opened up, and ended when they stopped housing</p> <p>9 the staff or did the composition of the</p> <p>10 individuals involved change?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. I don't remember but I believe</p> <p>13 there were some changes. But they were due to</p> <p>14 some employees making the changes. Because</p> <p>15 they didn't want to – they were scared</p> <p>16 because of COVID. And then someone else</p> <p>17 replaced them.</p> <p>18 Q. In terms of the folks that you were</p> <p>19 not responsible for payroll, there were other</p> <p>20 operational areas within the hotel that you</p> <p>21 didn't have responsibility for doing the</p> <p>22 payroll, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Were there also individuals from</p> <p>25 those areas back working in the hotel during</p>	<p>Page 173</p> <p>1 V. HOLMES</p> <p>2 the time period that it was housing the</p> <p>3 medical teams?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I'm not sure.</p> <p>6 Q. You don't know one way or the</p> <p>7 other?</p> <p>8 A. I'm not sure.</p> <p>9 Q. Looking down to the next paragraph,</p> <p>10 it says: Since then, the COVID-19 pandemic</p> <p>11 has continued to impact our business and the</p> <p>12 hospitality industry."</p> <p>13 Is that consistent with your</p> <p>14 recollection of the state of play at the time</p> <p>15 of this memo on April 9 of 2020?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And I think you mentioned to</p> <p>19 me earlier, and I'm not trying to misquote you</p> <p>20 in any way, that there were varying dates</p> <p>21 after March of 2020 when the hotel was at</p> <p>22 least targeted to hopefully reopen, is that</p> <p>23 accurate?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't understand the question.</p>

<p>Page 174</p> <p>1 V. HOLMES</p> <p>2 Q. Fair enough. You mentioned, and I</p> <p>3 don't want to misquote you, so tell me if I</p> <p>4 am, that initially right when the hotel ceased</p> <p>5 operations to the outside, at least, there was</p> <p>6 a hope that it was going to open in about two</p> <p>7 weeks?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. Yes. I remember.</p> <p>10 Q. And that obviously didn't happen,</p> <p>11 right?</p> <p>12 A. Correct.</p> <p>13 Q. And then there were, am I correct</p> <p>14 ma'am, updates that were provided in the form</p> <p>15 of memos very similar to what we see here as</p> <p>16 exhibit 33 on a periodic basis going forward?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't remember.</p> <p>19 Q. You don't remember whether you</p> <p>20 received like Four Seasons type memos in that</p> <p>21 time period with periodic updates about the</p> <p>22 status of things in terms of reopening, that</p> <p>23 kind of stuff?</p> <p>24 A. Yes, I had some. But they weren't</p> <p>25 like, you know, periodic, continuously like</p>	<p>Page 175</p> <p>1 V. HOLMES</p> <p>2 you're saying.</p> <p>3 Q. Okay. A number of them followed</p> <p>4 the March 20 closing, right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And in that time period, in</p> <p>7 those communications there were, were there</p> <p>8 not, targeted dates for the hotel to reopen</p> <p>9 that kept getting extended?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't remember the dates. But</p> <p>12 they did --</p> <p>13 Q. You don't remember the dates but</p> <p>14 the fact that there were dates in there that</p> <p>15 kept getting extended from communication to</p> <p>16 communication, did that happen?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. Extensions happened.</p> <p>19 Q. Okay. And they were reported,</p> <p>20 correct?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. Some.</p> <p>23 Q. All right. Well let's look at the</p> <p>24 one we have here. I just want to ask you</p> <p>25 about the sentence in that paragraph we were</p>
<p>Page 176</p> <p>1 V. HOLMES</p> <p>2 just looking at. It says For these reasons --</p> <p>3 I'll start here. "For these reasons it is</p> <p>4 necessary to extend the suspension of regular</p> <p>5 hotel operations until April 30, 2020."</p> <p>6 Right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And is that --</p> <p>9 A. (Coughing).</p> <p>10 Q. Are you okay?</p> <p>11 A. Mm-hmm.</p> <p>12 Q. Is that an example of a report of</p> <p>13 an extension of when the hotel had previously</p> <p>14 anticipated it would reopen?</p> <p>15 A. Yes.</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 Q. All right. Oh, let me ask you</p> <p>18 another question, ma'am, just out of</p> <p>19 curiosity.</p> <p>20 ATTORNEY BRUSTEIN: On this</p> <p>21 exhibit?</p> <p>22 ATTORNEY BOLAND: Yes, on this</p> <p>23 exhibit.</p> <p>24 Q. If you take a look, please, at the</p> <p>25 last page. And you'll see the last paragraph</p>	<p>Page 177</p> <p>1 V. HOLMES</p> <p>2 before the salutation and then Ms. Ortiz's</p> <p>3 name?</p> <p>4 A. Yes.</p> <p>5 Q. It says "These are unprecedented</p> <p>6 times," exclamation point, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you agree with that statement or</p> <p>9 disagree with it?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 It's a yes or no.</p> <p>12 A. What are you asking me? If I see</p> <p>13 it?</p> <p>14 Q. Yes.</p> <p>15 A. Yes, I see it.</p> <p>16 Q. Looking at this, as of April 2020,</p> <p>17 do you agree or disagree with the statement</p> <p>18 "these are unprecedented times"?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I guess, yes.</p> <p>21 Q. You agree with it?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. Yes.</p> <p>24 (Defendants' Exhibit 34, Staley</p> <p>25 v FSR 0054 was marked for</p>

<p>Page 178</p> <p>1 V. HOLMES</p> <p>2 identification).</p> <p>3 Q. Ma'am, I am handing you what has</p> <p>4 been marked as exhibit 34, which for the</p> <p>5 record is a document bearing the Bates number</p> <p>6 Staley v FSR 0054. And have you ever seen</p> <p>7 exhibit 34 before?</p> <p>8 (The witness reviews document.)</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Is this one of the documents</p> <p>11 that you gathered from your files to be</p> <p>12 produced in the case?</p> <p>13 A. I don't remember.</p> <p>14 Q. Did you gather and produce, putting</p> <p>15 aside this particular one, any of the, I'm</p> <p>16 going to call them memos, with this Four</p> <p>17 Seasons letterhead, to be produced in this</p> <p>18 case?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. Did I produce some of these?</p> <p>21 Q. Yes. Did you find any of these in</p> <p>22 your file? And I'm not holding you to any</p> <p>23 specific one. But I'm just talking about</p> <p>24 these memos from Elizabeth Ortiz or from the</p> <p>25 manager that are on this letterhead. Were any</p>	<p>Page 179</p> <p>1 V. HOLMES</p> <p>2 of those in your file?</p> <p>3 A. Possibly.</p> <p>4 Q. You don't know one way or the</p> <p>5 other?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. Possibly.</p> <p>8 Q. I know it's possible. A lot of</p> <p>9 things are possible. Do you know one way or</p> <p>10 the other whether you did or you didn't?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. Possibly.</p> <p>13 Q. Okay. Did you receive these types</p> <p>14 of -- I'm just talking generally -- these</p> <p>15 types of notifications, memos in this format,</p> <p>16 during the time period from after March 2020,</p> <p>17 when the hotel ceased operations to the</p> <p>18 public?</p> <p>19 A. Some, yes.</p> <p>20 Q. How did you get them?</p> <p>21 A. I believe via email.</p> <p>22 Q. And when you say email, what email</p> <p>23 address were they sent on?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I'm not sure.</p>
<p>Page 180</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. Did you continue to receive</p> <p>3 emails -- strike that.</p> <p>4 Did you have a Four Seasons email</p> <p>5 address?</p> <p>6 A. I did.</p> <p>7 Q. Did you receive materials via that</p> <p>8 email address or emails via that email address</p> <p>9 after March 20, 2020?</p> <p>10 A. I don't remember.</p> <p>11 Q. Do you still maintain, do you still</p> <p>12 have access to your Four Seasons email</p> <p>13 account?</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 A. No, I don't.</p> <p>16 Q. Why not?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I can't answer that.</p> <p>19 Q. Have you tried to access it?</p> <p>20 A. I tried maybe a year and change</p> <p>21 ago. I -- I haven't had it for a long time.</p> <p>22 Q. When you say you haven't had it,</p> <p>23 I'm trying to understand what you mean. What</p> <p>24 kind of -- was it an exchange account? An</p> <p>25 Outlook account? What kind of account was it?</p>	<p>Page 181</p> <p>1 V. HOLMES</p> <p>2 A. Oh, I had an authentication code.</p> <p>3 Q. Okay?</p> <p>4 A. And that's how I was able to access</p> <p>5 my emails. And I don't know what happened. I</p> <p>6 just lost access to my emails.</p> <p>7 Q. Do you know --</p> <p>8 A. And to Workday, which is the</p> <p>9 database that Four Seasons used. I lost</p> <p>10 access to that as well.</p> <p>11 Q. Did you ever contact anyone at Four</p> <p>12 Seasons about gaining access to either Workday</p> <p>13 or your email, after you lost access to it?</p> <p>14 A. One time I asked Elizabeth Ortiz.</p> <p>15 Q. And what did she tell you?</p> <p>16 A. She reset my Workday.</p> <p>17 Q. Okay. And was that all you raised</p> <p>18 with her was Workday? Did you raise email?</p> <p>19 A. I don't remember.</p> <p>20 Q. And she reset it and gave you</p> <p>21 access back to Workday?</p> <p>22 A. Yes.</p> <p>23 Q. All right. And she reset your</p> <p>24 authorization code, is that how she helped you</p> <p>25 out?</p>

<p>Page 182</p> <p>1 V. HOLMES</p> <p>2 A. She reset my password.</p> <p>3 Q. Okay. When was the last time you</p> <p>4 tried to get into your work email?</p> <p>5 A. I don't remember. But it's been a</p> <p>6 long time.</p> <p>7 Q. And how about Workday, when was the</p> <p>8 last time you tried to get into Workday?</p> <p>9 A. I believe last -- last year</p> <p>10 sometime. In the beginning of the summer,</p> <p>11 maybe.</p> <p>12 Q. And you weren't able to get in, is</p> <p>13 that accurate?</p> <p>14 A. I don't remember.</p> <p>15 Q. Do you know whether any of the</p> <p>16 other non-union employees who are on furlough</p> <p>17 currently use, have access to their Four</p> <p>18 Seasons work emails?</p> <p>19 A. I'm not sure.</p> <p>20 Q. Have you asked anybody?</p> <p>21 A. I'm not sure.</p> <p>22 Q. Did you receive documents such as</p> <p>23 exhibit 34 via mail? U.S. mail?</p> <p>24 A. I'm not sure.</p> <p>25 Q. Okay. Why don't we go through this</p>	<p>Page 183</p> <p>1 V. HOLMES</p> <p>2 and then we can all break for lunch, how's</p> <p>3 that? All right.</p> <p>4 If we take a look, this is April 30</p> <p>5 of 2020, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And you see it has a section under</p> <p>8 Hotel Operations, right?</p> <p>9 A. Yes.</p> <p>10 Q. And I'm not trying to discount any</p> <p>11 of the things, it talks again in the first</p> <p>12 couple of sentences about the housing of</p> <p>13 medical staff, right?</p> <p>14 A. Mm-hmm. Yes.</p> <p>15 Q. Okay. And it talks, they're going</p> <p>16 to continue to provide that housing to the</p> <p>17 medical community until May 31 of 2020,</p> <p>18 correct?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And that's consistent with</p> <p>22 your understanding of what was happening at</p> <p>23 the hotel at the time, correct?</p> <p>24 A. Yes.</p> <p>25 Q. By the way, you're not contending</p>
<p>Page 184</p> <p>1 V. HOLMES</p> <p>2 in this lawsuit, are you, that the Four</p> <p>3 Seasons did not house the medical staff after</p> <p>4 COVID hit in March of 2020?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. You're asking me if I don't --</p> <p>7 Q. I am asking, is it your contention</p> <p>8 that this is not true? In other words that</p> <p>9 there was no medical staff there and this was</p> <p>10 all a lie?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. No, I'm not saying that.</p> <p>13 Q. Going down, it says additionally</p> <p>14 the COVID-19 pandemic has continued to impact</p> <p>15 our business and the hospitality industry.</p> <p>16 Correct?</p> <p>17 ATTORNEY BRUSTEIN: Objection. Are</p> <p>18 you saying correct that it says that or</p> <p>19 is it correct --</p> <p>20 Q. Is it correct that it says that?</p> <p>21 A. Yeah, it says that.</p> <p>22 Q. Okay. And is that consistent with</p> <p>23 your recollection and understanding of the</p> <p>24 state of affairs at the time on April 30,</p> <p>25 2020?</p>	<p>Page 185</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. Yes.</p> <p>4 Q. All right. And then it says, "with</p> <p>5 the social distancing guidelines and stay at</p> <p>6 home orders still in place ..." And I want to</p> <p>7 draw a pause there.</p> <p>8 Do you remember the term social</p> <p>9 distancing guidelines from the time period</p> <p>10 early in the pandemic?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. What did you understand</p> <p>13 those to be?</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 A. I understood we had to be six feet</p> <p>16 apart.</p> <p>17 Q. Six feet apart. And that was</p> <p>18 something that was generally put in place in</p> <p>19 most areas, but certainly in New York,</p> <p>20 correct?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I believe so.</p> <p>23 Q. Okay. And then there were stay at</p> <p>24 home orders. Do you recall there being stay</p> <p>25 at home orders issued by the governor of</p>

<p>Page 186</p> <p>1 V. HOLMES</p> <p>2 New York?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I do remember that.</p> <p>5 Q. And the hotel is a hotel that is</p> <p>6 open when it's open for travelers, as well as</p> <p>7 people from the city who might want to stay</p> <p>8 there, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Do you know whether there were stay</p> <p>11 at home orders that were issued in other</p> <p>12 states as well?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. I'm not sure.</p> <p>15 Q. You don't know?</p> <p>16 A. Mm-hmm.</p> <p>17 Q. Any reason to believe that there</p> <p>18 weren't?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. No reason to believe that.</p> <p>21 Q. And they say "it is necessary to</p> <p>22 extend the suspension of regular hotel</p> <p>23 operations until June 15, 2020."</p> <p>24 Correct?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 187</p> <p>1 V. HOLMES</p> <p>2 Again are you asking if it's true or</p> <p>3 that it says it in the document?</p> <p>4 ATTORNEY BOLAND: No, I am only</p> <p>5 asking her if it says it in the</p> <p>6 document.</p> <p>7 A. It says it in the document.</p> <p>8 Q. Okay. Is that another example of</p> <p>9 the anticipated perhaps potential reopening of</p> <p>10 the hotel being extended again?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. Yes.</p> <p>13 ATTORNEY BOLAND: Okay. Why don't</p> <p>14 we take a lunch break.</p> <p>15 (Lunch recess taken at 1:32 p.m.)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 188</p> <p>1 V. HOLMES</p> <p>2 AFTERNOON SESSION</p> <p>3 (2:29 p.m.)</p> <p>4 ---</p> <p>5</p> <p>6 VIVIAN HOLMES,</p> <p>7 resumed as a witness, having been</p> <p>8 previously sworn by a Notary Public,</p> <p>9 was examined and testified further as</p> <p>10 follows:</p> <p>11 EXAMINATION BY</p> <p>12 ATTORNEY BOLAND:</p> <p>13 Q. Ms. Holmes, you recognize you're</p> <p>14 still under oath, right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. I want to direct your</p> <p>17 attention to exhibit, what's been marked as</p> <p>18 exhibit 35. Which for the record is a</p> <p>19 document bearing the Bates number Staley v FSR</p> <p>20 0086 to 87.</p> <p>21 (Defendants' Exhibit 35, Staley</p> <p>22 v FSR 0086 to 87 was marked for</p> <p>23 identification).</p> <p>24 Q. My first question is going to be,</p> <p>25 and take a look at it, I'm not trying to stop</p>	<p>Page 189</p> <p>1 V. HOLMES</p> <p>2 you from doing that, if you have ever seen</p> <p>3 exhibit 35 before?</p> <p>4 (The witness reviews document.)</p> <p>5 A. I don't remember.</p> <p>6 Q. Do you recognize the form of the</p> <p>7 document that is marked as exhibit 35?</p> <p>8 A. It looks like the similar form that</p> <p>9 they would use to send emails.</p> <p>10 Q. When you say send emails, what do</p> <p>11 you mean by that?</p> <p>12 A. These documents were sent via</p> <p>13 emails.</p> <p>14 Q. Okay. And these would be, for want</p> <p>15 of a better term, what's happening type of</p> <p>16 emails that would be sent on a periodic basis?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. They were sent sometimes.</p> <p>19 Q. Okay. And this is dated May 15,</p> <p>20 2020, right?</p> <p>21 A. That's what it says here, yes.</p> <p>22 Q. Is this one of the documents that</p> <p>23 you found in your files and produced in this</p> <p>24 case?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>

<p>Page 190</p> <p>1 V. HOLMES</p> <p>2 A. I don't remember.</p> <p>3 Q. Okay. I take it you don't remember</p> <p>4 this specific document, but do you remember</p> <p>5 documents of this type?</p> <p>6 A. I remember documents of this type.</p> <p>7 Q. Yeah, you don't remember this</p> <p>8 specific one?</p> <p>9 A. No, I don't remember.</p> <p>10 Q. I want to direct your attention, if</p> <p>11 we could, to a couple of things. There's a</p> <p>12 section under, it says what's happening at</p> <p>13 FSNY this week, question mark. And then it</p> <p>14 says Leadership message from Frank Galasso,</p> <p>15 director of engineering, right?</p> <p>16 ATTORNEY BRUSTEIN: I'm sorry, what</p> <p>17 did you just say?</p> <p>18 Q. It says what is happening at FSNY</p> <p>19 this week? And then it says Leadership</p> <p>20 message from Frank Galasso, director of</p> <p>21 engineering?</p> <p>22 ATTORNEY BRUSTEIN: I thought you</p> <p>23 said "meeting." That's why -- I thought</p> <p>24 you said meeting instead of message.</p> <p>25 Q. Yes. Do you see where I'm</p>	<p>Page 191</p> <p>1 V. HOLMES</p> <p>2 referring to, ma'am?</p> <p>3 A. Yes, I see it.</p> <p>4 Q. What would you call this? Would</p> <p>5 you call this a newsletter? Would you call it</p> <p>6 an update? What would you call it?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I don't know what I would call it.</p> <p>9 I would call it information.</p> <p>10 Q. Okay.</p> <p>11 A. I don't know what the hotel calls</p> <p>12 it.</p> <p>13 Q. Yeah, I was just wondering if you</p> <p>14 had a term for it?</p> <p>15 A. No, I don't have a term for it.</p> <p>16 Q. All right. And in these documents</p> <p>17 that will be provided from time to time would</p> <p>18 there be typically an update message included,</p> <p>19 like we have here, Dear Four Seasons family,</p> <p>20 something similar to that?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I don't know. Sometimes there</p> <p>23 would. Sometimes there wouldn't.</p> <p>24 Q. Okay. If you take a look down</p> <p>25 there is a -- there are two sections. One is</p>
<p>Page 192</p> <p>1 V. HOLMES</p> <p>2 May 15-21 anniversaries. Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And then there's May 15-21</p> <p>5 birthdays, right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Would it be your</p> <p>8 understanding that the individuals identified</p> <p>9 were all current employees?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't know that.</p> <p>12 Q. Did they report the anniversaries,</p> <p>13 the service anniversaries of people who had</p> <p>14 quit?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I don't know that.</p> <p>17 Q. Did they -- you don't know whether</p> <p>18 service anniversaries --</p> <p>19 A. They're producing this document.</p> <p>20 I'm not producing this document.</p> <p>21 Q. I am asking your understanding,</p> <p>22 ma'am. Did you have an understanding that</p> <p>23 when -- strike that.</p> <p>24 You have seen these types of</p> <p>25 documents before, correct?</p>	<p>Page 193</p> <p>1 V. HOLMES</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And there would typically be</p> <p>4 a section about anniversaries and birthdays,</p> <p>5 would there not?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. Sometimes yes. Sometimes no.</p> <p>8 Q. Okay. Did you read these when they</p> <p>9 were sent to you or did you just not pay</p> <p>10 attention to them, or not look at them?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. When I received them I may pay</p> <p>13 attention. I may not.</p> <p>14 Q. Okay. In the ones you have seen,</p> <p>15 do you recall there being sections about</p> <p>16 anniversaries and birthdays?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't remember.</p> <p>19 Q. You don't know whether the Four</p> <p>20 Seasons, for example, would record the service</p> <p>21 anniversary of somebody who had quit five</p> <p>22 years earlier?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I wouldn't know that.</p> <p>25 Q. What would be your assumption?</p>

<p>Page 194</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I don't know.</p> <p>4 Q. You don't have any assumption?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. No.</p> <p>7 Q. Okay. Do you have any reason to</p> <p>8 believe that you weren't sent that exhibit 35,</p> <p>9 ma'am?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I'm sorry?</p> <p>12 Q. Do you have any reason to believe</p> <p>13 that you were not sent what has been marked as</p> <p>14 exhibit 35?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I'm not sure.</p> <p>17 Q. My question is do you have any</p> <p>18 reason to believe that it didn't get sent to</p> <p>19 you?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I don't know.</p> <p>22 Q. I know you don't know whether you</p> <p>23 got it or not. My question is do you have any</p> <p>24 reason to believe that it wasn't sent?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 195</p> <p>1 V. HOLMES</p> <p>2 A. I cannot answer that. This was</p> <p>3 sent from the hotel.</p> <p>4 Q. Right. And you're a person who had</p> <p>5 a hotel email address, correct?</p> <p>6 A. That I don't have access to.</p> <p>7 Q. I didn't ask about whether you had</p> <p>8 access to it now. I just asked you if you had</p> <p>9 an email address from the hotel, correct?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. At what period of time?</p> <p>12 Q. Let's say -- let's look at the date</p> <p>13 of this. This is May 15, 2020. Did you still</p> <p>14 have an email address for the hotel -- from</p> <p>15 the hotel? A Four Seasons email address?</p> <p>16 A. I don't remember, and I don't</p> <p>17 believe so.</p> <p>18 Q. You don't remember and you don't</p> <p>19 believe so. Why don't you believe so?</p> <p>20 A. Because I don't remember when was</p> <p>21 the first time that I had access to the email.</p> <p>22 Q. How did you find out about the June</p> <p>23 25, 2021 meeting that you recorded?</p> <p>24 A. They sent an email to my personal</p> <p>25 email address.</p>
<p>Page 196</p> <p>1 V. HOLMES</p> <p>2 Q. You got it through your personal</p> <p>3 email address, not through your work email</p> <p>4 address, that's your testimony under oath?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. Yes.</p> <p>7 Q. Your testimony under oath is you</p> <p>8 don't have access to the Four Seasons email</p> <p>9 address today?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't.</p> <p>12 Q. You don't?</p> <p>13 A. I don't have access to the emails.</p> <p>14 Q. Okay.</p> <p>15 A. To the Four Seasons emails.</p> <p>16 Q. You don't have that, okay. Did you</p> <p>17 have access, and I want to know yes or no, or</p> <p>18 if you don't know, to the Four Seasons email</p> <p>19 address on May 15, 2020?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I don't remember.</p> <p>22 Q. Tell me if I'm right. The</p> <p>23 documents of the type that are marked, that we</p> <p>24 have marked here as exhibit 35 were sent by</p> <p>25 email, is that fair?</p>	<p>Page 197</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. That's fair.</p> <p>4 Q. Okay. Were these sent, ever sent</p> <p>5 to your personal email account?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. Some were.</p> <p>8 Q. Okay. When you were looking</p> <p>9 through your email accounts did you flag</p> <p>10 emails for production that would have</p> <p>11 contained a document such as exhibit 35?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I don't remember what I submitted,</p> <p>14 as far as documents that look like this.</p> <p>15 Q. How long ago did you search for</p> <p>16 documents to produce in this case, ma'am?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. Last year, when I was submitting</p> <p>19 discoveries.</p> <p>20 Q. Okay. So in 2022, late 2002?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. About.</p> <p>23 Q. Okay. You can't remember what you</p> <p>24 did then, right?</p> <p>25 A. No.</p>

<p>Page 198</p> <p>1 V. HOLMES</p> <p>2 Q. So I take it your memory of things</p> <p>3 over time goes away, is that fair?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. It's possible.</p> <p>6 Q. Okay. And you would probably have</p> <p>7 less memory of things that happened in 2021</p> <p>8 than do you in 2022, right?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. Not necessarily.</p> <p>11 Q. Why not?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I can't answer that.</p> <p>14 Q. Okay. Do you think your memory</p> <p>15 gets better with age or worse with age?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. I don't know what the formula is,</p> <p>18 how my memory works.</p> <p>19 Q. Okay. And you don't remember that,</p> <p>20 the particular document that we had marked as</p> <p>21 exhibit 35?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't remember it.</p> <p>24 Q. Okay.</p> <p>25 (Defendants' Exhibit 36, Staley</p>	<p>Page 199</p> <p>1 V. HOLMES</p> <p>2 v FSR 0055 was marked for</p> <p>3 identification).</p> <p>4 Q. I am handing you, ma'am, what has</p> <p>5 been marked as exhibit 36, which for the</p> <p>6 record is a document bearing the Bates number</p> <p>7 Staley v FSR 0055.</p> <p>8 My first question, ma'am, is have</p> <p>9 you ever seen exhibit 36 before?</p> <p>10 (The witness reviews document.)</p> <p>11 A. I don't remember this document.</p> <p>12 Q. I beg your pardon? I'm sorry.</p> <p>13 A. I don't remember this document.</p> <p>14 Q. And you don't --</p> <p>15 A. It looks similar to another one</p> <p>16 that you submitted.</p> <p>17 Q. There are a number of these with</p> <p>18 different dates.</p> <p>19 A. Oh, okay.</p> <p>20 Q. Do you remember seeing these over</p> <p>21 time in the time period after COVID struck?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. Some I did. Some I didn't.</p> <p>24 Q. Okay. Fair enough. Do you</p> <p>25 remember seeing more than one of these after</p>
<p>Page 200</p> <p>1 V. HOLMES</p> <p>2 the time period that COVID struck?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't remember seeing too many.</p> <p>5 Q. Okay. And the reason I'm asking,</p> <p>6 ma'am, is because I think you testified</p> <p>7 earlier and correct me if I'm wrong, that one</p> <p>8 of the things that you, when I asked you about</p> <p>9 the reason why you sued, just generally, and</p> <p>10 you had mentioned that you were told that it</p> <p>11 was going to -- the hotel was going to open</p> <p>12 one day and then it was going to open another</p> <p>13 day, another day and another day. Do you</p> <p>14 remember that generally?</p> <p>15 A. And that my WARN Act was violated.</p> <p>16 Q. I'll get to the WARN Act later, I</p> <p>17 promise you.</p> <p>18 A. That's fine.</p> <p>19 Q. Okay. I am talking about the dates</p> <p>20 that you had mentioned. You did talk about</p> <p>21 that, right? Dates being extended?</p> <p>22 A. You talked about dates being</p> <p>23 extended, yes.</p> <p>24 Q. Yeah. Is that something that you</p> <p>25 also remember happening, dates were reopening</p>	<p>Page 201</p> <p>1 V. HOLMES</p> <p>2 being extended?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I remember the hotel not reopening.</p> <p>5 Q. You don't remember any</p> <p>6 communications about the dates that the hotel</p> <p>7 might reopen, you know, like it was going to</p> <p>8 be X date and then moved to another date and</p> <p>9 another date?</p> <p>10 A. Some.</p> <p>11 Q. How did you find out about that?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. Via email.</p> <p>14 Q. What do you mean? An email for</p> <p>15 what? An email with just saying that or an</p> <p>16 email containing a document such as we have</p> <p>17 here as exhibit 36? Some combination? How</p> <p>18 did you find out about the communication of</p> <p>19 dates being moved?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. The time that I found out about</p> <p>22 dates being extended was through email.</p> <p>23 Q. Okay. I understand email is the</p> <p>24 transmission. Was the information you got in</p> <p>25 a text of an email or was it an attachment to</p>

<p>Page 202</p> <p>1 V. HOLMES</p> <p>2 an email in a document perhaps such as we have</p> <p>3 here as exhibit 36?</p> <p>4 A. I don't remember.</p> <p>5 Q. All right. So you don't know</p> <p>6 whether you have seen this particular</p> <p>7 document, exhibit 36, before, is that fair?</p> <p>8 A. That is fair.</p> <p>9 Q. Okay. So you can't tell me, as you</p> <p>10 sit here today, whether you had read, for</p> <p>11 example, the second paragraph talking about</p> <p>12 the last communication, one on May 2020,</p> <p>13 indicated looking for a potential reopen of</p> <p>14 June 15, 2020, you don't know whether you've</p> <p>15 ever seen that before, right?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. I don't remember.</p> <p>18 Q. Okay. And you don't remember</p> <p>19 whether you had seen the prior one, the prior</p> <p>20 communication, any prior communication talking</p> <p>21 about a reopen date of June 15, 2020, do you?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't remember.</p> <p>24 Q. Okay. And it says: Since that</p> <p>25 time, our owner, Ty Warner, has agreed to</p>	<p>Page 203</p> <p>1 V. HOLMES</p> <p>2 extend the complementary housing for the</p> <p>3 health care professionals through June 30,</p> <p>4 2020.</p> <p>5 You don't remember when you saw</p> <p>6 that either, do you?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I don't remember.</p> <p>9 Q. Do you have any understanding as to</p> <p>10 when the temporary housing for the health care</p> <p>11 professionals ended?</p> <p>12 A. No. The hotel should know that.</p> <p>13 Q. I'm sorry?</p> <p>14 A. I said the hotel should know that.</p> <p>15 Q. I understand that. I wanted to</p> <p>16 know what you know.</p> <p>17 A. Oh, okay.</p> <p>18 Q. And you don't know?</p> <p>19 A. No.</p> <p>20 Q. Okay. And then it says, in</p> <p>21 addition to that extension, "the social</p> <p>22 distancing guidelines and the stay at home</p> <p>23 orders still in place."</p> <p>24 Is that consistent with your</p> <p>25 understanding of the state of affairs during</p>
<p>Page 204</p> <p>1 V. HOLMES</p> <p>2 COVID as of May 22, 2020?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't know.</p> <p>5 Q. You don't know?</p> <p>6 A. No.</p> <p>7 Q. And then it says: Therefore, it is</p> <p>8 necessary to extend the suspension of regular</p> <p>9 hotel operations until July 15, 2020."</p> <p>10 Right?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 Q. That's what it says, right?</p> <p>13 A. That's what it says on the paper,</p> <p>14 yes.</p> <p>15 Q. Did you have any understanding of</p> <p>16 that representation being made?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't know.</p> <p>19 Q. You don't know?</p> <p>20 A. No.</p> <p>21 Q. Okay. And you understand the</p> <p>22 difference between the regular hotel</p> <p>23 operations that are being suggested here and</p> <p>24 the hotel operations that are not open to the</p> <p>25 public, right?</p>	<p>Page 205</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. No, I don't have a clear</p> <p>4 understanding of that.</p> <p>5 Q. Okay. Well, you knew the hotel was</p> <p>6 not open to the public, but was nonetheless</p> <p>7 open in housing medical professionals,</p> <p>8 correct?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. They're considered public.</p> <p>11 Q. They were housing medical</p> <p>12 professionals?</p> <p>13 A. (Nodding head affirmatively.)</p> <p>14 Q. Were they taking reservations from</p> <p>15 the outside?</p> <p>16 A. I don't know.</p> <p>17 Q. What efforts have you made to find</p> <p>18 out before you sued?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I'm sorry?</p> <p>21 Q. What efforts did you make to find</p> <p>22 out before you sued?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. You're asking me if I made an</p> <p>25 investigation?</p>

<p>Page 206</p> <p>1 V. HOLMES</p> <p>2 Q. Yeah.</p> <p>3 A. I wasn't called back to work.</p> <p>4 Q. I understand that. What</p> <p>5 investigation did you make before you sued to</p> <p>6 find out what had actually been happening at</p> <p>7 the hotel from March 20, 2020 until the time</p> <p>8 you sued the defendants in the case?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I don't remember.</p> <p>11 Q. Did you do anything?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 Q. You may answer, ma'am. Did you do</p> <p>14 any investigation at all?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I don't remember.</p> <p>17 Q. You don't remember whether you did?</p> <p>18 A. Uh-uh.</p> <p>19 Q. Okay.</p> <p>20 ATTORNEY RISMAN: Off the record</p> <p>21 for a second.</p> <p>22 (Discussion off the record.)</p> <p>23 (Defendants' Exhibit 37, Staley</p> <p>24 v FSR 0056 was marked for</p> <p>25 identification).</p>	<p>Page 207</p> <p>1 V. HOLMES</p> <p>2 Q. Ma'am, I am handing you what has</p> <p>3 been marked as exhibit 37, which for the</p> <p>4 record is a document bearing the Bates number</p> <p>5 Staley v FSR 0056.</p> <p>6 First question, ma'am. Have you</p> <p>7 ever seen exhibit 37 before?</p> <p>8 (The witness reviews document.)</p> <p>9 A. I don't remember this. I don't</p> <p>10 remember this document.</p> <p>11 Q. You don't know if you have ever</p> <p>12 seen it before?</p> <p>13 A. I don't recall.</p> <p>14 Q. So you don't know whether this is a</p> <p>15 document that you found and produced, or is it</p> <p>16 not a document that you found and produced?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't know.</p> <p>19 Q. You don't know whether that's one</p> <p>20 of the documents that you found in your files</p> <p>21 and turned over?</p> <p>22 A. No, I don't remember it.</p> <p>23 Q. You don't remember it. So I take</p> <p>24 it that you've never -- you don't remember</p> <p>25 actually reading any of the language on this</p>
<p>Page 208</p> <p>1 V. HOLMES</p> <p>2 page, is that accurate, ma'am?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't remember it.</p> <p>5 Q. Okay. What were the dates that you</p> <p>6 understood to have been provided over time for</p> <p>7 the hotel's -- let me finish, ma'am.</p> <p>8 What were the dates over time,</p> <p>9 starting in March 2020 that you understand the</p> <p>10 hotel was providing based on their expectation</p> <p>11 or hope to reopen?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 Q. You said initially two weeks, you</p> <p>14 thought it was going to be two weeks, right?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 There was like five questions there.</p> <p>17 Q. You may answer.</p> <p>18 ATTORNEY BRUSTEIN: Which question?</p> <p>19 Q. Do you understand my question,</p> <p>20 ma'am? Or not. If you don't, tell me.</p> <p>21 A. I don't understand.</p> <p>22 Q. Okay. Originally you told me I</p> <p>23 think, and tell me if I'm wrong, that when the</p> <p>24 hotel closed there was an expectation that it</p> <p>25 was going to reopen in about two weeks. Did I</p>	<p>Page 209</p> <p>1 V. HOLMES</p> <p>2 have that correct or incorrect?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. It was correct.</p> <p>5 Q. Okay. What was the next date after</p> <p>6 that, that was provided as a date of</p> <p>7 anticipated reopening?</p> <p>8 A. I don't remember.</p> <p>9 Q. Do you remember any of the dates</p> <p>10 that were provided for anticipated reopening?</p> <p>11 A. Specific dates, no.</p> <p>12 Q. General dates. Can you give me a</p> <p>13 broader sense of any dates of the interim</p> <p>14 period, any dates from May 20 of 2020, and I</p> <p>15 understand there's the two weeks, any dates</p> <p>16 other than that up to today, where you were</p> <p>17 informed or understood that the hotel was</p> <p>18 saying they expected to reopen?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I really don't remember.</p> <p>21 Q. Did you have an understanding at</p> <p>22 the time, ma'am, putting out specific dates,</p> <p>23 that the hotel was trying to reopen as quickly</p> <p>24 as it could? Was that your understanding at</p> <p>25 the time, around the March to, say, August of</p>

<p>Page 210</p> <p>1 V. HOLMES</p> <p>2 2020 time period?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. Like it was my understanding?</p> <p>5 Q. Yeah. Was it your understanding or</p> <p>6 not?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I was hopeful that they were going</p> <p>9 to open.</p> <p>10 Q. Did you have an understanding as to</p> <p>11 what the hotel wanted to do?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I can't answer that. I don't know</p> <p>14 what the hotel wanted to do.</p> <p>15 Q. Okay. You understand that if the</p> <p>16 hotel is closed it's not making money,</p> <p>17 correct?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. I don't understand that.</p> <p>20 Q. You think that the hotel could be</p> <p>21 profitable being empty?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't know if the hotel --</p> <p>24 Q. Did you think about it?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 211</p> <p>1 V. HOLMES</p> <p>2 Q. You can answer. He's just</p> <p>3 objecting. You may answer. Did you think</p> <p>4 about whether the hotel could be profitable if</p> <p>5 it remained closed to the public?</p> <p>6 A. That's not for me to think about.</p> <p>7 Q. I didn't ask you if it was for you</p> <p>8 to think about it. I asked if you if you did</p> <p>9 or you didn't --</p> <p>10 A. I didn't.</p> <p>11 Q. Have you ever thought about it?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. No, I don't think about that.</p> <p>14 Q. Going down this document if we</p> <p>15 could, ma'am. And I'm just going to ask if</p> <p>16 something refreshes your memory or not. The</p> <p>17 second paragraph that says: "With that said,</p> <p>18 my last communication to you on May 22,</p> <p>19 2020 ..."</p> <p>20 And then it goes on.</p> <p>21 A. Okay.</p> <p>22 Q. "I want to just say, with June 30</p> <p>23 right around the corner I wanted to let you</p> <p>24 know that all health care professionals will</p> <p>25 be leaving by June 30, 2020 and the program</p>
<p>Page 212</p> <p>1 V. HOLMES</p> <p>2 will discontinue."</p> <p>3 Does that in any way refresh your</p> <p>4 memory or recollection about when the</p> <p>5 temporary housing for health care</p> <p>6 professionals ended?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I don't know. It says it here.</p> <p>9 Q. Yeah, I was just wondering if now</p> <p>10 you remember something based on having read it</p> <p>11 and with that date?</p> <p>12 A. No I don't remember.</p> <p>13 Q. Okay. Were you still, at the time</p> <p>14 period of June 22, 2020, performing the</p> <p>15 payroll function for the folks in your area?</p> <p>16 A. June 2020?</p> <p>17 Q. The date of this, I just want to</p> <p>18 peg it to the date, the date here is June 22,</p> <p>19 2020. Were you still performing the payroll</p> <p>20 function for the folks in your area?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. Yes, I was.</p> <p>23 Q. How long did you continue to do</p> <p>24 that?</p> <p>25 A. About two weeks after that date.</p>	<p>Page 213</p> <p>1 V. HOLMES</p> <p>2 Q. And then you stopped, what, about</p> <p>3 the end of June, beginning of July?</p> <p>4 A. That's a good estimate.</p> <p>5 Q. Okay. At the time that you</p> <p>6 stopped, who if anyone to your knowledge took</p> <p>7 over that function?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I'm not sure.</p> <p>10 Q. When you look at the next paragraph</p> <p>11 other than the one we were just looking at,</p> <p>12 ma'am, it says "Upon departure of health care</p> <p>13 professionals, we will temporarily be</p> <p>14 suspending most of our hotel operations.</p> <p>15 During this time, the hotel will continue to</p> <p>16 operate with a reduced staffing to maintain</p> <p>17 the building's safety and security."</p> <p>18 And it says "The upcoming schedules</p> <p>19 will reflect these changes."</p> <p>20 Right? That's what it says,</p> <p>21 correct?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. Yes. That's what it says on the</p> <p>24 paper.</p> <p>25 Q. Okay. Were there schedules for</p>

<p>Page 214</p> <p>1 V. HOLMES</p> <p>2 various departments available for someone like</p> <p>3 you to take a look at through Four Seasons,</p> <p>4 interacting with Four Seasons systems?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. You're asking me if I was able to</p> <p>7 see other department schedules?</p> <p>8 Q. I am asking you if you were able to</p> <p>9 see any department schedules to start out</p> <p>10 with?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. Other than my own department?</p> <p>13 Q. Any of them. It could be your own,</p> <p>14 it could be others. That was simply the</p> <p>15 general question. Were you able to access and</p> <p>16 see schedules?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. During what period of time?</p> <p>19 Q. During the period of time of, let's</p> <p>20 say, starting in June 22 of 2020?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I would be able to see just my</p> <p>23 department.</p> <p>24 Q. Okay. You were able to see your</p> <p>25 department, you weren't able to see others, is</p>	<p>Page 215</p> <p>1 V. HOLMES</p> <p>2 that fair?</p> <p>3 A. That's fair.</p> <p>4 Q. Did you look, after June 22 of</p> <p>5 2020, did you access the schedules to see, you</p> <p>6 know, who from your department was scheduled</p> <p>7 for work and who wasn't, that kind of thing?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. While I was still working?</p> <p>10 Q. Let's start with while you were</p> <p>11 still working, yeah.</p> <p>12 A. I could see the schedules while I</p> <p>13 was still working, for my department.</p> <p>14 Q. I know you could see them. I was</p> <p>15 wondering if you went in and looked at them</p> <p>16 and accessed them?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. It's the way that I would be able</p> <p>19 to pay them.</p> <p>20 Q. Okay. And how many people were</p> <p>21 still working during that time period between</p> <p>22 June 22 of 2020 and the time you stopped</p> <p>23 working?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't remember.</p>
<p>Page 216</p> <p>1 V. HOLMES</p> <p>2 Q. So you don't know how many people</p> <p>3 were working?</p> <p>4 A. Uh-uh.</p> <p>5 Q. Do you know how many hours each of</p> <p>6 them was working?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I don't remember.</p> <p>9 Q. Okay. You don't remember. I take</p> <p>10 it you weren't able to see the schedules for</p> <p>11 other departments?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. No, I wasn't able to see other</p> <p>14 departments.</p> <p>15 Q. Okay. I don't know that. I'm just</p> <p>16 asking you. So you don't know how many folks</p> <p>17 from other departments continued to work after</p> <p>18 June of 2020, do you?</p> <p>19 A. Based on a schedule?</p> <p>20 Q. Just based on anything. You don't</p> <p>21 know how many people from other departments</p> <p>22 continued to work after June of 2020, do you?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I'm not sure.</p> <p>25 Q. Do you know at all, any number?</p>	<p>Page 217</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I don't know.</p> <p>4 Q. You don't know. After you stopped</p> <p>5 doing the payroll function do you know how</p> <p>6 many folks in your department continued to</p> <p>7 work after June of 2020?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I don't know how many. I know some</p> <p>10 of the ones who were working.</p> <p>11 Q. You know some of the people were</p> <p>12 working, you don't know how many in total, is</p> <p>13 that fair?</p> <p>14 A. That's fair.</p> <p>15 Q. Who do you know who was still</p> <p>16 working?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. You want the names of people that</p> <p>19 were still working?</p> <p>20 Q. The ones you know, yes.</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. Pamela Carrington. James Kirkland.</p> <p>23 Abdul Khan.</p> <p>24 Q. Khan?</p> <p>25 A. Khan.</p>

<p>Page 218</p> <p>1 V. HOLMES</p> <p>2 Q. Thank you.</p> <p>3 A. I can't remember all of them.</p> <p>4 ATTORNEY BRUSTEIN: Can we take a</p> <p>5 quick break?</p> <p>6 ATTORNEY BOLAND: Okay. Let me</p> <p>7 finish this line and then we'll be able</p> <p>8 to do it. I'm almost finished with this</p> <p>9 line.</p> <p>10 ATTORNEY BRUSTEIN: I just have to</p> <p>11 go to the bathroom so hopefully it's not</p> <p>12 a long line.</p> <p>13 ATTORNEY BOLAND: It's not a long</p> <p>14 line.</p> <p>15 ATTORNEY BRUSTEIN: That's off the</p> <p>16 record?</p> <p>17 ATTORNEY BOLAND: No.</p> <p>18 ATTORNEY BRUSTEIN: That's fine.</p> <p>19 Q. With respect to the individuals, do</p> <p>20 you know whether they constitute the entire</p> <p>21 group of people from your department who were</p> <p>22 working or just some people that you know?</p> <p>23 A. I don't understand the question.</p> <p>24 Q. Is this everyone who was working</p> <p>25 after June of 2020 in your department or just</p>	<p>Page 219</p> <p>1 V. HOLMES</p> <p>2 the names that you recall?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. They're the names I recall.</p> <p>5 Q. Okay. And there could be more</p> <p>6 names, is that fair?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. Possibly.</p> <p>9 Q. Okay. How many hours were each of</p> <p>10 these people working per week?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. Average?</p> <p>13 Q. No, I want to know -- let's start</p> <p>14 with Pamela. How many hours was she working</p> <p>15 per week?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. It varied.</p> <p>18 Q. How do you know?</p> <p>19 A. Because I talked with her.</p> <p>20 Q. Okay. What did she tell you?</p> <p>21 A. Well, when I --</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 Q. What did she tell you. Not when.</p> <p>24 A. She's working on average twenty-one</p> <p>25 days -- I mean twenty-one hours per week.</p>
<p>Page 220</p> <p>1 V. HOLMES</p> <p>2 Sometimes fourteen.</p> <p>3 Q. And sometimes more than twenty-one</p> <p>4 if twenty-one was the average?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I'm not sure.</p> <p>7 Q. You don't know. James Kirkland,</p> <p>8 how many hours was he working per week?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 ATTORNEY BOLAND: Strike that. Let</p> <p>11 me go back to Pamela.</p> <p>12 Q. How long did she continue to work?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. Until she retired.</p> <p>15 Q. When did she retire?</p> <p>16 A. I don't remember.</p> <p>17 Q. Was it in 2020? Was it in 2021?</p> <p>18 Do you have an idea?</p> <p>19 A. I don't remember.</p> <p>20 Q. James Kirkland, how many hours a</p> <p>21 week did he work after June of 2020?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't remember.</p> <p>24 Q. How long did he continue to work</p> <p>25 after June of 2020?</p>	<p>Page 221</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I believe he's still working. I'm</p> <p>4 not sure.</p> <p>5 Q. And the last one was Abdul Khan, is</p> <p>6 that right? The last person that you</p> <p>7 mentioned?</p> <p>8 A. Yeah.</p> <p>9 Q. How many hours was Mr. Khan working</p> <p>10 after June of 2020, a week?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. I don't remember.</p> <p>13 Q. Okay. How long did Mr. Khan</p> <p>14 continue to work after June of 2020?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I'm not sure.</p> <p>17 ATTORNEY BOLAND: Okay. We'll take</p> <p>18 a break.</p> <p>19 ATTORNEY BRUSTEIN: Thank you.</p> <p>20 ---</p> <p>21 (Recess from 2:59 to 3:06.)</p> <p>22 ---</p> <p>23 ATTORNEY BOLAND: Back on the</p> <p>24 record?</p> <p>25 THE COURT REPORTER: Back on the</p>

<p>Page 222</p> <p>1 V. HOLMES</p> <p>2 record.</p> <p>3 (Defendants' Exhibit 38, Staley v</p> <p>4 FSR 0017 to 18 was marked for</p> <p>5 identification).</p> <p>6 Q. Ms. Holmes, I am handing you what</p> <p>7 has been marked as exhibit 38, which for the</p> <p>8 record is a document that bears the Bates</p> <p>9 numbers Staley v FSR 0017 to 18. And my first</p> <p>10 question is going to be, ma'am, have you ever</p> <p>11 seen this before?</p> <p>12 (The witness reviews document.)</p> <p>13 A. Yes, I've seen this before.</p> <p>14 Q. Okay. And is this one of the</p> <p>15 documents that you got from your files to</p> <p>16 produce in this case?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't remember.</p> <p>19 Q. The date of this is July 15, 2020,</p> <p>20 is that correct, ma'am?</p> <p>21 A. Yes, it says July 15, 2020.</p> <p>22 Mm-hmm.</p> <p>23 Q. Okay. And since you've seen this</p> <p>24 before I take it you received it in some</p> <p>25 fashion, is that accurate?</p>	<p>Page 223</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I've seen it before.</p> <p>4 Q. Yeah, but my question was since</p> <p>5 you've seen it before, am I correct that you</p> <p>6 received it in some fashion?</p> <p>7 A. I don't remember how I received it.</p> <p>8 Q. Did you receive it?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I don't remember.</p> <p>11 Q. So how would you have seen it</p> <p>12 before? Help me out. I'm just trying to</p> <p>13 understand, ma'am. How would you have seen it</p> <p>14 before if you didn't receive it?</p> <p>15 A. I --</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. I recognize the language.</p> <p>18 Q. You recognize the language, I get</p> <p>19 that.</p> <p>20 A. Mm-hmm.</p> <p>21 Q. Was it sent to you in some fashion?</p> <p>22 A. I don't remember how.</p> <p>23 Q. I understand that. That's fine.</p> <p>24 The first question wasn't how. The question</p> <p>25 was, was it sent to you in some fashion, by</p>
<p>Page 224</p> <p>1 V. HOLMES</p> <p>2 some method?</p> <p>3 A. I don't remember.</p> <p>4 Q. The first sentence says: "During</p> <p>5 these unprecedented times, we know that there</p> <p>6 are uncertainties around many things ..." and</p> <p>7 there's a comma and then the sentence goes on,</p> <p>8 correct? I just want to get you to where it</p> <p>9 says, you can read up to the comma in the</p> <p>10 first sentence, right?</p> <p>11 ATTORNEY BRUSTEIN: Objection. Did</p> <p>12 you ask her if she can read up to the</p> <p>13 comma?</p> <p>14 ATTORNEY BOLAND: Yes, I'm asking</p> <p>15 if she can read up to the comma.</p> <p>16 A. You want me to read it?</p> <p>17 Q. Yes, to yourself.</p> <p>18 A. Yes, I read it.</p> <p>19 Q. All right. Did you agree with that</p> <p>20 sentiment as of July 15, 2020, meaning "During</p> <p>21 these unprecedented times we know that there</p> <p>22 are uncertainties around many things"?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 Q. Did you agree with that or not?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 225</p> <p>1 V. HOLMES</p> <p>2 A. I didn't write it. I'm not --</p> <p>3 Q. I know you didn't write it, ma'am.</p> <p>4 I'm asking if you agree with it?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I don't know who the unprecedented</p> <p>7 times was for.</p> <p>8 Q. Let me ask you a question. Had you</p> <p>9 ever lived through a pandemic before?</p> <p>10 A. Before this pandemic?</p> <p>11 Q. Yes.</p> <p>12 A. No.</p> <p>13 Q. So would you consider, as a term to</p> <p>14 use for the pandemic and its effects</p> <p>15 unprecedented?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. That's the language that I guess</p> <p>18 the hotel was using.</p> <p>19 Q. I understand that. My question is</p> <p>20 about you. You would have -- did you consider</p> <p>21 the circumstances caused by the pandemic that</p> <p>22 started in early 2020 to be unprecedented?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I didn't think about it like that.</p> <p>25 Q. How did you think about it?</p>

<p>Page 226</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I just didn't.</p> <p>4 Q. You didn't think about the fact</p> <p>5 that this is something completely different</p> <p>6 than I've ever lived through before?</p> <p>7 A. It was different.</p> <p>8 Q. Okay. Had you ever lived through</p> <p>9 anything that was similar in nature in your</p> <p>10 view?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 Q. You can answer that question,</p> <p>13 ma'am.</p> <p>14 A. If I've lived through anything</p> <p>15 that's similar?</p> <p>16 Q. Had you ever lived through any set</p> <p>17 of circumstances that was similar, in your</p> <p>18 view, to the circumstances that followed the</p> <p>19 outbreak of COVID-19 in early 2020?</p> <p>20 A. In my view?</p> <p>21 Q. Yes.</p> <p>22 A. I have.</p> <p>23 Q. What were those?</p> <p>24 A. It's personal.</p> <p>25 Q. Sorry, ma'am. We're under oath</p>	<p>Page 227</p> <p>1 V. HOLMES</p> <p>2 here. What were they?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I have lived times that, you know,</p> <p>5 I thought were unprecedented for me.</p> <p>6 Q. For you. In terms of the broader</p> <p>7 scope, you understood that COVID-19 and the</p> <p>8 pandemic was global in nature, right?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. It was global.</p> <p>11 Q. Okay. Had you lived through</p> <p>12 anything similar in your view to COVID-19 on</p> <p>13 that scale, that broad scale?</p> <p>14 A. No.</p> <p>15 Q. So was it, in your view, a very new</p> <p>16 and different experience?</p> <p>17 A. It was different.</p> <p>18 Q. Was it new as well? In other words</p> <p>19 you hadn't seen it before?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I hadn't seen COVID before.</p> <p>22 Q. Had you seen anything like COVID</p> <p>23 before, in your personal experience on a scale</p> <p>24 even in a city scale?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>
<p>Page 228</p> <p>1 V. HOLMES</p> <p>2 A. I hadn't seen COVID before.</p> <p>3 Q. I know you haven't seen COVID</p> <p>4 before. Had you seen anything similar to</p> <p>5 COVID before, in your personal experience?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. I don't remember.</p> <p>8 Q. You don't remember?</p> <p>9 A. No.</p> <p>10 Q. Okay. When COVID hit, ma'am, did</p> <p>11 you get the feeling that there were</p> <p>12 uncertainties about what would happen in the</p> <p>13 future? In other words you couldn't predict</p> <p>14 how things were going to happen over the next</p> <p>15 few weeks, few months?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. No one can predict what's going to</p> <p>18 happen, with anything.</p> <p>19 Q. Fair enough. Did you feel that</p> <p>20 that situation was exacerbated or made more, I</p> <p>21 don't want to you use the wrong word, was</p> <p>22 heightened by the fact that the COVID-19</p> <p>23 pandemic had taken its grip?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. Could you ask that again please?</p>	<p>Page 229</p> <p>1 V. HOLMES</p> <p>2 Q. Yes, sure. Did the presence of</p> <p>3 COVID-19 add to the degree of uncertainty that</p> <p>4 already exists in your view, as to what could</p> <p>5 happen in the future?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. I don't know what could have</p> <p>8 happened in the future.</p> <p>9 Q. Not my question. I understand you</p> <p>10 don't know what could happen in the future.</p> <p>11 Did COVID-19 add any uncertainty, exaggerate</p> <p>12 the level of uncertainty about what would</p> <p>13 happen in the future, in your view?</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 A. I didn't think about it. I don't</p> <p>16 know.</p> <p>17 Q. You didn't think about it?</p> <p>18 A. Uh-uh.</p> <p>19 Q. You said you saw this internal memo</p> <p>20 before, is that accurate or do I have that</p> <p>21 wrong?</p> <p>22 A. I said I remember some of the</p> <p>23 language.</p> <p>24 Q. Okay.</p> <p>25 A. Or the content.</p>

<p>Page 230</p> <p>1 V. HOLMES</p> <p>2 Q. What was the purpose of this to</p> <p>3 your understanding?</p> <p>4 A. My understanding is that we had</p> <p>5 options to continue medical and dental</p> <p>6 coverage.</p> <p>7 Q. Okay.</p> <p>8 A. By using Businessolver.</p> <p>9 Q. If you'll look at the second</p> <p>10 paragraph, ma'am. The one that says you will</p> <p>11 receive a monthly invoice, right?</p> <p>12 A. Yes.</p> <p>13 Q. There's a sentence in there that</p> <p>14 says: "If payment is not received by the</p> <p>15 required due date," and then -- I just want to</p> <p>16 make sure your with me at that sentence. Are</p> <p>17 you following that one?</p> <p>18 A. Yes, I see it.</p> <p>19 Q. Okay. "Your benefits will be</p> <p>20 terminated," and it says, "and you can</p> <p>21 reinstate your benefits once you return to</p> <p>22 work." Correct?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. That's what it says here.</p> <p>25 Q. Yes. Did you have an expectation</p>	<p>Page 231</p> <p>1 V. HOLMES</p> <p>2 that there would be a time period when you</p> <p>3 would in fact return to work?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I was told that we would return</p> <p>6 back to work.</p> <p>7 Q. I understand what this says. The</p> <p>8 question is whether you had an expectation</p> <p>9 that you would return to work?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I believed in what the Four Seasons</p> <p>12 said.</p> <p>13 Q. And your expectation was based</p> <p>14 solely on what the Four Seasons said, is that</p> <p>15 fair?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 Q. You can answer.</p> <p>18 A. I thought we were coming back.</p> <p>19 Q. Okay. And you thought they were</p> <p>20 going to come back. Why did you think that?</p> <p>21 A. Because that is what the Four</p> <p>22 Seasons said.</p> <p>23 Q. Okay. Any other reason that you</p> <p>24 thought they were going to reopen?</p> <p>25 A. That we're going to be open or that</p>
<p>Page 232</p> <p>1 V. HOLMES</p> <p>2 we're coming back?</p> <p>3 Q. You're coming back, sorry. Any</p> <p>4 other reason that you think you're coming</p> <p>5 back?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. No other reason.</p> <p>8 Q. Okay. Did you have an</p> <p>9 understanding or belief at the time, and I</p> <p>10 want to put this in July of 2020, that the</p> <p>11 Four Seasons, this is just your understanding,</p> <p>12 intended to try to reopen the hotel to the</p> <p>13 public and bring you back, and others back?</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 A. I don't remember.</p> <p>16 ATTORNEY BOLAND: I am going to</p> <p>17 mark two documents at the same time,</p> <p>18 exhibits 39 and 40.</p> <p>19 (Defendants' Exhibit 39, Staley</p> <p>20 v FSR 0002 was marked for</p> <p>21 identification).</p> <p>22 (Defendants' Exhibit 40, Staley</p> <p>23 v FSR 0016 was marked for</p> <p>24 identification).</p> <p>25 Q. Ma'am, I am handing you two</p>	<p>Page 233</p> <p>1 V. HOLMES</p> <p>2 documents marked exhibits 39 and 40.</p> <p>3 Exhibit 39 has the Bates number</p> <p>4 Staley v FSR 0002. And exhibit 40 bears the</p> <p>5 Bates number Staley v FSR 0016. You can look</p> <p>6 at them side by side, if you like, ma'am. My</p> <p>7 question is have you seen either or both of</p> <p>8 these documents before?</p> <p>9 (The Witness reviewing documents.)</p> <p>10 A. Are these the same --</p> <p>11 ATTORNEY BRUSTEIN: Answer the</p> <p>12 question.</p> <p>13 A. Okay.</p> <p>14 (The witness reviews document.)</p> <p>15 A. So your question is if I have seen</p> <p>16 these documents -- this document?</p> <p>17 Q. There's two documents in front of</p> <p>18 you, ma'am. Because I am going to represent</p> <p>19 to you, they have different Bates numbers. It</p> <p>20 was in the production from the plaintiffs</p> <p>21 twice. One with the Bates number 16 and one</p> <p>22 with the Bates number 2.</p> <p>23 A. Okay.</p> <p>24 Q. Okay? So my first question is --</p> <p>25 well, strike that.</p>

<p>Page 234</p> <p>1 V. HOLMES</p> <p>2 Let's consider them as one for</p> <p>3 right now. Have you seen the August 5, 2020</p> <p>4 letter that we see represented on both of</p> <p>5 these exhibits before?</p> <p>6 A. I've seen them before.</p> <p>7 Q. Okay. And are these two documents,</p> <p>8 documents that you found in your files to be</p> <p>9 produced in this case?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. No. Not in my file.</p> <p>12 Q. Okay. Did you find them anywhere</p> <p>13 when you produced documents for them to be</p> <p>14 produced in this case?</p> <p>15 A. This particular document I</p> <p>16 remember --</p> <p>17 Q. Yes.</p> <p>18 A. -- only because I had sent an email</p> <p>19 to Elizabeth Ortiz asking her what was the</p> <p>20 status of my furlough. And in return, she</p> <p>21 submitted this letter, or memo, whatever, via</p> <p>22 email, that was dated back to August 5th. But</p> <p>23 the email was like in 2021, I believe.</p> <p>24 Q. Oh, I see. So you did not receive</p> <p>25 the document that we have represented here on</p>	<p>Page 235</p> <p>1 V. HOLMES</p> <p>2 two different exhibits until 2021, is that</p> <p>3 your testimony?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. How did you receive it in</p> <p>6 2021? Was it by email from Ms. Ortiz?</p> <p>7 A. She sent it as an attachment via</p> <p>8 email.</p> <p>9 Q. Okay. Now there are two copies</p> <p>10 that were produced to us. Did you have two</p> <p>11 copies of this in your files, somewhere in</p> <p>12 your files? Email, anywhere. Whatever you've</p> <p>13 got that you looked for.</p> <p>14 A. I had it as an email.</p> <p>15 Q. I understand that. I understand</p> <p>16 you have it as an email. But I have two</p> <p>17 copies produced to me. I'm just trying to</p> <p>18 figure out why I've got two copies produced to</p> <p>19 me?</p> <p>20 A. I can't answer that. I don't know</p> <p>21 why you have two copies.</p> <p>22 Q. So you did receive this -- it's</p> <p>23 your testimony, and I want to be fair to you,</p> <p>24 under oath, you did not receive this at some</p> <p>25 point on or around August 5 of 2021, as</p>
<p>Page 236</p> <p>1 V. HOLMES</p> <p>2 stated?</p> <p>3 A. No.</p> <p>4 Q. Okay. How did you receive it --</p> <p>5 you said by email, in 2021, right?</p> <p>6 A. Yes.</p> <p>7 Q. What email account?</p> <p>8 A. My personal account.</p> <p>9 Q. In 2020, in August of 2020, were</p> <p>10 you accessing your Four Seasons email account?</p> <p>11 A. No.</p> <p>12 Q. Have you accessed your Four Seasons</p> <p>13 email account since August of 2020?</p> <p>14 A. I haven't had access to it.</p> <p>15 Q. Okay. So you don't know whether</p> <p>16 this was sent to you at your Four Seasons</p> <p>17 account, that you didn't access, or have</p> <p>18 access to, is that fair?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I don't know.</p> <p>21 Q. You don't know whether it was or it</p> <p>22 wasn't?</p> <p>23 A. Right.</p> <p>24 Q. Okay. You've had communications</p> <p>25 with -- have you had communications or</p>	<p>Page 237</p> <p>1 V. HOLMES</p> <p>2 discussions, and I'm talking about electronic,</p> <p>3 it could be in person, with any other</p> <p>4 non-union employees about the notice that we</p> <p>5 see here on exhibits 39 and 40, only with</p> <p>6 respect to when they got it?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I don't remember.</p> <p>9 Q. Did you talk to Ms. Staley about</p> <p>10 that?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. I don't remember.</p> <p>13 Q. I'm trying to get the last name</p> <p>14 right, because I always get it wrong.</p> <p>15 Ms. Ivey. Did you talk to Ms. Ivey about</p> <p>16 that?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't remember.</p> <p>19 Q. Okay. So as you sit here today you</p> <p>20 don't know whether everybody didn't get the</p> <p>21 notice on or around August 5, 2020 or just you</p> <p>22 didn't receive it?</p> <p>23 A. Oh, I don't know what they</p> <p>24 received.</p> <p>25 Q. You don't know what anybody else</p>

<p>Page 238</p> <p>1 V. HOLMES</p> <p>2 received?</p> <p>3 A. No.</p> <p>4 Q. We would have to go ask them,</p> <p>5 wouldn't we?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. I guess.</p> <p>8 Q. Right. Okay. So you understand</p> <p>9 this to be a notice under the WARN Act, is</p> <p>10 that right, ma'am?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. I'm sorry?</p> <p>13 Q. Do you understand this to be a</p> <p>14 notice provided under the WARN Act? You have</p> <p>15 a WARN Act claim? You've been talking about</p> <p>16 the WARN Act since you went and had your</p> <p>17 conversation with your lawyer?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 That's inappropriate.</p> <p>20 Q. Do you understand that you have a</p> <p>21 claim under the WARN Act?</p> <p>22 A. Yes, I understand that.</p> <p>23 Q. Did you understand this whenever</p> <p>24 you received it to be a notice provided under</p> <p>25 the WARN Act?</p>	<p>Page 239</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. It says on the paper that it's a</p> <p>4 WARN Act notice.</p> <p>5 Q. Okay. So you got a WARN Act notice</p> <p>6 in 2021, is that your testimony?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. Via email, the attachment?</p> <p>9 Q. Yes.</p> <p>10 A. That's when I got this.</p> <p>11 Q. That's when you got that, but you</p> <p>12 didn't get it earlier in any way?</p> <p>13 A. Exactly.</p> <p>14 Q. Okay. So what is your complaint</p> <p>15 about the WARN Act notice? What's wrong with</p> <p>16 it?</p> <p>17 A. Well, this --</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. To my understanding the WARN Act</p> <p>20 notice, it's given to you prior, 60 days prior</p> <p>21 to you being furloughed, and it comes with</p> <p>22 payment of 60 days.</p> <p>23 Q. You understand it comes with a</p> <p>24 payment of 60 days?</p> <p>25 A. They're supposed to give you pay to</p>
<p>Page 240</p> <p>1 V. HOLMES</p> <p>2 warn you that you may be unemployed.</p> <p>3 Q. Okay. And so what is your</p> <p>4 complaint about this one? Let's say it</p> <p>5 doesn't include a payment with it, right? Is</p> <p>6 that one of your complaints about it?</p> <p>7 A. We did not receive payment. I did</p> <p>8 not receive payment.</p> <p>9 Q. Okay. That's one of your</p> <p>10 complaints. And then do you have another</p> <p>11 complaint about the timing?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. We did not get it in a timely</p> <p>14 manner.</p> <p>15 Q. When you say "we," when did</p> <p>16 everybody else get it, ma'am?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I'll correct that. I did not</p> <p>19 receive it in a timely manner.</p> <p>20 Q. What's a timely manner?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. To my understanding, 60 days prior.</p> <p>23 Q. To what?</p> <p>24 A. To being unemployed.</p> <p>25 Q. Okay. When did you first -- were</p>	<p>Page 241</p> <p>1 V. HOLMES</p> <p>2 you first able to apply for unemployment?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't remember.</p> <p>5 Q. Well, when do you think -- tell me</p> <p>6 the date that you should have been provided</p> <p>7 the WARN Act notice? I've got a pen, I've got</p> <p>8 a paper. What date?</p> <p>9 ATTORNEY BRUSTEIN: Objection. And</p> <p>10 I'm not sure what supplies you have have</p> <p>11 any relevance to the question.</p> <p>12 Q. You may answer.</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. 60 days prior.</p> <p>15 Q. I want a date, ma'am. Calendar --</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 Q. What calendar date should have been</p> <p>18 sent to you; tell me, please?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I can't answer that.</p> <p>21 Q. You're the plaintiff who has come</p> <p>22 in and you have filed a lawsuit against</p> <p>23 defendants forcing them to come into court,</p> <p>24 spent thousands and hundreds of thousands of</p> <p>25 dollars to defend it.</p>

<p>Page 242</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 Q. Is it your testimony, ma'am, that</p> <p>4 you can't tell me under oath the date that</p> <p>5 you're saying that these defendants should</p> <p>6 have provided you with a WARN Act notice?</p> <p>7 ATTORNEY BRUSTEIN: Please stop</p> <p>8 pointing at the witness.</p> <p>9 Q. You may answer.</p> <p>10 ATTORNEY BRUSTEIN: I object.</p> <p>11 A. So the WARN Act should have been</p> <p>12 provided in March. March 2020.</p> <p>13 Q. Do you have any particular day in</p> <p>14 March of 2020?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. A specific date?</p> <p>17 Q. Yeah. I'm wondering if you have a</p> <p>18 specific date. If you don't tell me. That's</p> <p>19 fine. I just want to know?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I don't know.</p> <p>22 Q. And that's when you think it should</p> <p>23 have been provided to you, is that fair,</p> <p>24 ma'am?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 243</p> <p>1 V. HOLMES</p> <p>2 A. To all of us. We should have all</p> <p>3 gotten a WARN Act.</p> <p>4 Q. Why?</p> <p>5 A. Because we were going to be laid</p> <p>6 off.</p> <p>7 Q. Didn't other people continue to</p> <p>8 work after March of 2020?</p> <p>9 A. Other people like who?</p> <p>10 Q. Well, you testified earlier, did</p> <p>11 you not, ma'am, that there were folks that</p> <p>12 came into the hotel, even before the temporary</p> <p>13 housing was put up for the medical</p> <p>14 professionals, right?</p> <p>15 A. Some.</p> <p>16 Q. Okay. And there were other people</p> <p>17 who came into the hotel and worked while the</p> <p>18 medical professionals were being housed there,</p> <p>19 right?</p> <p>20 A. Some.</p> <p>21 Q. Okay. And there are people who</p> <p>22 have continued to work at the hotel even after</p> <p>23 they left in June of 2020, you testified to</p> <p>24 that earlier, too, right?</p> <p>25 A. Some.</p>
<p>Page 244</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. So why would the WARN Act</p> <p>3 have to be provided to all of those folks who</p> <p>4 continued to work?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. It would have been provided to the</p> <p>7 ones that are not working.</p> <p>8 Q. Okay. And who are those people</p> <p>9 among the non-union employees?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 Q. Other than you?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I'm not sure.</p> <p>14 Q. Did you make any effort to figure</p> <p>15 that out before you had a lawsuit filed on</p> <p>16 your behalf as a class action?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. There are some that are in my same</p> <p>19 position. In my same situation.</p> <p>20 Q. Okay. Who? I've got a pen.</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 Q. I'll write it down.</p> <p>23 ATTORNEY BRUSTEIN: I don't know</p> <p>24 what your supplies have to do with</p> <p>25 anything. There's a court reporter.</p>	<p>Page 245</p> <p>1 V. HOLMES</p> <p>2 That's necessary commentary.</p> <p>3 Q. You can answer.</p> <p>4 A. Olive, Selena.</p> <p>5 Q. Okay.</p> <p>6 A. That's what I have for now.</p> <p>7 Q. So I understand your belief and</p> <p>8 your claim that you should have been given</p> <p>9 some money when the WARN Act notice was</p> <p>10 provided. That's one of your complaints about</p> <p>11 it, is that fair?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. My WARN Act was violated.</p> <p>14 Q. I understand that. And you said</p> <p>15 you -- you gave me two ways, right? You said</p> <p>16 timing, correct?</p> <p>17 ATTORNEY BRUSTEIN: Objection;</p> <p>18 mischaracterization of the testimony.</p> <p>19 Q. You may answer. Timing was one of</p> <p>20 the ways in which the WARN Act was violated,</p> <p>21 in your view with respect to you, correct?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And then the other way was I</p> <p>25 think you had testified, and tell me if I'm</p>

<p>Page 246</p> <p>1 V. HOLMES</p> <p>2 wrong, that you believe that you were supposed</p> <p>3 to also have been provided with money at the</p> <p>4 time that the WARN Act notice was given?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Let's put aside the money.</p> <p>7 How were you harmed by the timing of receiving</p> <p>8 the WARN Act notice?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. By not receiving the WARN Act?</p> <p>11 Q. Yeah. By not receiving it earlier</p> <p>12 than, you know, you did.</p> <p>13 A. It didn't allow us -- allow me to</p> <p>14 prepare.</p> <p>15 Q. Prepare for what?</p> <p>16 A. For employment, or for whatever it</p> <p>17 is that we need to -- I needed to prepare for.</p> <p>18 Q. Okay. So let's assume that the</p> <p>19 WARN Act notice was given in March of 2020.</p> <p>20 What other jobs were out there for you to be</p> <p>21 able to take up at that time in the midst of</p> <p>22 the COVID-19 pandemic?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. There were essential jobs.</p> <p>25 Q. Which ones? Which ones have you</p>	<p>Page 247</p> <p>1 V. HOLMES</p> <p>2 looked into? Tell me?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I didn't look into any.</p> <p>5 Q. What jobs were out there?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. I don't know but there were</p> <p>8 essential jobs out there.</p> <p>9 Q. Can you identify one?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. Nurses.</p> <p>12 Q. Are you a nurse?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. That wasn't the question.</p> <p>15 Q. Okay.</p> <p>16 A. The question was what essential</p> <p>17 jobs is out there and I gave you one.</p> <p>18 Q. Very good, thank you.</p> <p>19 ATTORNEY BRUSTEIN: Excuse me.</p> <p>20 Q. Let me get one that is more --</p> <p>21 ATTORNEY BRUSTEIN: Can you please</p> <p>22 stop pointing at the witness.</p> <p>23 ATTORNEY BOLAND: I'm just making</p> <p>24 gestures. I'm not pointing at the</p> <p>25 witness. Knock it off.</p>
<p>Page 248</p> <p>1 V. HOLMES</p> <p>2 Q. I'm talking about the ones that</p> <p>3 would have been suitable for you. What jobs</p> <p>4 were out there for someone like you, and I'm</p> <p>5 not suggesting to denigrate your background,</p> <p>6 but I'm not a nurse either, what jobs were out</p> <p>7 there for you to get back in March of 2020 in</p> <p>8 the midst of the COVID-19 pandemic?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. There were many.</p> <p>11 Q. Which ones?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. Home attendant. A cashier.</p> <p>14 Transporter in the hospital. There were many</p> <p>15 jobs.</p> <p>16 Q. Okay.</p> <p>17 A. Essential jobs.</p> <p>18 Q. Okay. And after you got the WARN</p> <p>19 notice, which you say was in 2021, right --</p> <p>20 when in 2021? I'm sorry. I didn't ask you</p> <p>21 that. I don't think I asked you that.</p> <p>22 A. I don't remember.</p> <p>23 Q. Well, early? Mid? Late?</p> <p>24 A. Probably the middle of the year.</p> <p>25 Q. The middle of the year? What did</p>	<p>Page 249</p> <p>1 V. HOLMES</p> <p>2 you do to find alternative employment after</p> <p>3 you got the WARN notice?</p> <p>4 A. I didn't look for employment.</p> <p>5 Q. Why not?</p> <p>6 A. They kept stating that we would</p> <p>7 return.</p> <p>8 Q. Sure. But you also -- you've read</p> <p>9 the EmPact agreement haven't, you, ma'am?</p> <p>10 A. I have.</p> <p>11 Q. You know that it allows you to</p> <p>12 moonlight, take a second job if you like,</p> <p>13 right?</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 Q. You do know it says that, don't</p> <p>16 you?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 Q. Do you know that the EmPact</p> <p>19 agreement specifically allows you to moonlight</p> <p>20 or take a second job?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I'm not sure.</p> <p>23 Q. But you made no effort to find a</p> <p>24 second job or to moonlight or do something</p> <p>25 else after you got the WARN notice?</p>

<p>Page 250</p> <p>1 V. HOLMES</p> <p>2 A. If I did that, I was -- if there</p> <p>3 was any severance pay or any no-fault</p> <p>4 separation it would be forfeited if I found</p> <p>5 another job.</p> <p>6 Q. Who told you that?</p> <p>7 A. Elizabeth Ortiz.</p> <p>8 Q. Was that on that recording?</p> <p>9 A. She said it to me verbally.</p> <p>10 Q. When?</p> <p>11 A. I don't remember. In one of our</p> <p>12 conversations. But it's also in the -- it's</p> <p>13 also in the recording.</p> <p>14 Q. It's in the recording that says if</p> <p>15 you find another job, I want to be very fair</p> <p>16 to you, ma'am, what is the exact language that</p> <p>17 was used in the recording?</p> <p>18 A. I can't give you --</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. -- the exact language.</p> <p>21 Q. Okay. Give me the exact words,</p> <p>22 other than that recording, that Ms. Ortiz said</p> <p>23 to you to convey what you have just conveyed</p> <p>24 as the message?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 251</p> <p>1 V. HOLMES</p> <p>2 A. I can't give you that either.</p> <p>3 Q. Did you take any notes of that</p> <p>4 conversation that you had with Ms. Ortiz where</p> <p>5 she told you what you have suggested she told</p> <p>6 you?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I don't remember.</p> <p>9 Q. Did you record it like you recorded</p> <p>10 the meeting? Did you record that conversation</p> <p>11 with Ms. Ortiz?</p> <p>12 A. I don't remember.</p> <p>13 Q. Do you record conversations that</p> <p>14 you have with folks?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 Q. As a matter of practice?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. No.</p> <p>19 Q. After the August 5, 2020 notice</p> <p>20 that we were just looking at, you remained an</p> <p>21 employee on furlough, is that fair?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I'm sorry. Ask that again?</p> <p>24 Q. Yes. After the August 5 notice --</p> <p>25 well, strike that. You got it later. Never</p>
<p>Page 252</p> <p>1 V. HOLMES</p> <p>2 mind.</p> <p>3 Throughout 2020 you remained an</p> <p>4 employee on furlough, is that fair?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. The hotel says I'm furloughed.</p> <p>7 Q. Okay.</p> <p>8 (Defendants' Exhibit 41, Staley</p> <p>9 v FSR 0057 was marked for</p> <p>10 identification).</p> <p>11 Q. Ms. Holmes, I'm handing you what</p> <p>12 has been marked as exhibit 41 which for the</p> <p>13 record is a document bearing the Bates number</p> <p>14 Staley v FSR 0057.</p> <p>15 Have you ever seen exhibit 41</p> <p>16 before?</p> <p>17 (The witness reviews document.)</p> <p>18 A. I don't remember this.</p> <p>19 Q. You don't remember it? You don't</p> <p>20 know if you received it or not? Or you know</p> <p>21 you didn't receive it?</p> <p>22 A. I don't remember.</p> <p>23 Q. Okay. Well, you don't remember --</p> <p>24 I'm trying to understand. Did you -- strike</p> <p>25 that.</p>	<p>Page 253</p> <p>1 V. HOLMES</p> <p>2 When these were sent to you, the</p> <p>3 ones that you did receive, did you testify</p> <p>4 that they came by email?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I don't remember how it came.</p> <p>7 Q. Okay. So you don't remember</p> <p>8 whether you've even seen this, right?</p> <p>9 A. Mm-hmm.</p> <p>10 Q. Okay. If you look at the second</p> <p>11 paragraph, ma'am.</p> <p>12 A. Mm-hmm.</p> <p>13 Q. You say, the one that starts "in my</p> <p>14 last communication to you on June 22, 2020,"</p> <p>15 right? Then it goes on. I'm not trying to</p> <p>16 suggest it doesn't. The part I wanted to talk</p> <p>17 about is there's a sentence that says as</p> <p>18 Governor Cuomo announced at the end of June,</p> <p>19 there are also new travel restrictions for all</p> <p>20 individuals traveling from states with high</p> <p>21 COVID-19 infection rates. Do you see that?</p> <p>22 A. I see it.</p> <p>23 Q. Is that consistent with your</p> <p>24 recollection of the events, of the situation</p> <p>25 at the time?</p>

<p>Page 254</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I don't remember.</p> <p>4 Q. It says: "As of today 33 states</p> <p>5 meet the metrics for the travel advisory</p> <p>6 requiring individuals who have traveled to</p> <p>7 New York from those states to quarantine for</p> <p>8 14 days."</p> <p>9 Is that consistent with your</p> <p>10 recollection of the circumstances at the time?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. I don't remember.</p> <p>13 Q. And then it says: Additionally,</p> <p>14 key New York City events and attractions have</p> <p>15 been cancelled or there are extensive delays</p> <p>16 in reopening."</p> <p>17 Is that consistent with your</p> <p>18 recollection of the events at the time?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I don't remember.</p> <p>21 Q. When you were working at the hotel,</p> <p>22 before COVID struck, did you have an</p> <p>23 understanding of the things that drew</p> <p>24 travelers to stay at the hotel? In other</p> <p>25 words things in the city like Broadway, the</p>	<p>Page 255</p> <p>1 V. HOLMES</p> <p>2 Philharmonic, museums, things of that nature?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't know.</p> <p>5 Q. You don't know?</p> <p>6 A. Uh-uh.</p> <p>7 Q. How long were you there?</p> <p>8 A. For a little over a score.</p> <p>9 Q. I like that term a lot.</p> <p>10 A. You can borrow it.</p> <p>11 Q. I think Lincoln beat me to it.</p> <p>12 Did you have an understanding at</p> <p>13 the time, ma'am, that there were delays in for</p> <p>14 example, Broadway reopening?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I remember Broadway being closed.</p> <p>17 Q. You remember Broadway being closed?</p> <p>18 A. Mm-hmm.</p> <p>19 Q. What about things like Lincoln</p> <p>20 Center, the Philharmonic, museums?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 Q. Do you remember those being open or</p> <p>23 closed around the time in 2020?</p> <p>24 A. I remember them being closed.</p> <p>25 Q. Being closed. But you would agree</p>
<p>Page 256</p> <p>1 V. HOLMES</p> <p>2 with me as the plaintiff in this case, would</p> <p>3 you not, ma'am, that in order for an</p> <p>4 institution such as the Four Seasons Hotel to</p> <p>5 reopen to the public it would have to be</p> <p>6 economically feasible for it to do that, in</p> <p>7 other words it wouldn't be a losing money</p> <p>8 operation?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I don't run a hotel. I don't know</p> <p>11 that.</p> <p>12 Q. Okay. But in the score that you</p> <p>13 were there, did you understand that they were</p> <p>14 in it for charity or in it to make a profit?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I don't know that.</p> <p>17 Q. You don't know?</p> <p>18 A. No.</p> <p>19 Q. Okay. By the way, do you have any</p> <p>20 reason to believe -- I'm just going to ask you</p> <p>21 a question, ma'am. You'll see in this, the</p> <p>22 third paragraph says: "At this juncture, we</p> <p>23 need to readjust our reopening date to October</p> <p>24 15, 2020." Right?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 257</p> <p>1 V. HOLMES</p> <p>2 Q. I'm just getting you to the page</p> <p>3 with me. Do you see that sentence?</p> <p>4 A. Yes, I see it on the paper.</p> <p>5 Q. Okay, cool. And that's consistent</p> <p>6 with what we have seen in other notes like</p> <p>7 this, where there has been adjustments to the</p> <p>8 reopening date? We've talked about this</p> <p>9 before, right?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't remember.</p> <p>12 Q. You don't remember talking about</p> <p>13 the other emails where we started, you know,</p> <p>14 April and then it would move to May and then</p> <p>15 it would move to July, those kinds of things,</p> <p>16 the anticipated reopening date?</p> <p>17 A. I remember you reading them.</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 Q. Yes. You remember me reading them?</p> <p>20 A. I remember you reading them.</p> <p>21 Whether it's true or not, I don't know. It</p> <p>22 was on paper. You were reading them.</p> <p>23 Q. Yeah, I understand that. Did you</p> <p>24 have any reason to believe at any point in</p> <p>25 time that the hotel was not gunning to reopen</p>

<p>Page 258</p> <p>1 V. HOLMES</p> <p>2 on the dates that it was targeting each time?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't know what the hotel was</p> <p>5 gunning for.</p> <p>6 Q. You don't know one way or the</p> <p>7 other?</p> <p>8 A. I do not.</p> <p>9 Q. Okay.</p> <p>10 (Defendants' Exhibit 42, Staley</p> <p>11 v FSR 0088 to 89 was marked for</p> <p>12 identification).</p> <p>13 Q. I am handing you, ma'am, what has</p> <p>14 been marked as exhibit 42, which for the</p> <p>15 record is a document bearing the Bates number</p> <p>16 Staley v FSR 0088 to 89.</p> <p>17 My first question is do you</p> <p>18 recognize exhibit 42?</p> <p>19 A. No. I don't remember it.</p> <p>20 Q. Do you recognize the form of it,</p> <p>21 though, similar to another one we looked at</p> <p>22 earlier, right?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I remember the format.</p> <p>25 Q. Okay. And if you'll look at the</p>	<p>Page 259</p> <p>1 V. HOLMES</p> <p>2 very first, the top of it, ma'am, at least,</p> <p>3 "The Questions Follow Up From All Employee</p> <p>4 Town Hall Call," right? Do you see where I'm</p> <p>5 referring to on the page?</p> <p>6 A. I see what you're referring to.</p> <p>7 Q. And it says following the two town</p> <p>8 hall calls hosted by general manager, Rudy</p> <p>9 Tauscher, right?</p> <p>10 ATTORNEY BRUSTEIN: Objection. Is</p> <p>11 there a question?</p> <p>12 Q. Yeah, do you see where I'm looking</p> <p>13 at?</p> <p>14 A. I see what you're reading.</p> <p>15 Q. Okay. And the date of this at the</p> <p>16 bottom is August 28, 2020, right?</p> <p>17 A. Yes.</p> <p>18 Q. Did you participate in any town</p> <p>19 hall calls prior to August 28, 2020 hosted by</p> <p>20 general manager, Rudy Tauscher?</p> <p>21 A. I don't remember.</p> <p>22 Q. And so I take it you don't remember</p> <p>23 anything that might have been said at them</p> <p>24 either, correct?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>
<p>Page 260</p> <p>1 V. HOLMES</p> <p>2 A. I don't remember.</p> <p>3 Q. And if you take a look at the</p> <p>4 second page, ma'am, Bates number 89. And we</p> <p>5 have boxes for August 28 to September 3,</p> <p>6 birthdays and anniversaries, right?</p> <p>7 A. Yes, I see that.</p> <p>8 Q. Okay. I take it your testimony is</p> <p>9 that you don't know whether any of the people</p> <p>10 that are listed, for example, on anniversaries</p> <p>11 would, because they're marking their</p> <p>12 anniversary, still be employed?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. I don't know.</p> <p>15 Q. What would be your assumption?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. I don't have an assumption on that.</p> <p>18 (Defendants' Exhibit 43, Staley v</p> <p>19 FSR 0221 was marked for identification).</p> <p>20 Q. I am handing you, Ms. Holmes, what</p> <p>21 has been marked as exhibit 43, which for the</p> <p>22 record is a document that bears the Bates</p> <p>23 number Staley v FSR 0221. Before I turn to</p> <p>24 this, ma'am. The document that we had marked</p> <p>25 as exhibit 42, is that one of the documents</p>	<p>Page 261</p> <p>1 V. HOLMES</p> <p>2 that you gathered from the files you have in</p> <p>3 some fashion, be it electronic or paper, to be</p> <p>4 produced in this case?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I don't remember.</p> <p>7 Q. Okay. Let's go to exhibit 43.</p> <p>8 Have you ever seen exhibit 43 before?</p> <p>9 (The witness reviews document.)</p> <p>10 A. Yes, I remember seeing this.</p> <p>11 Q. Okay. You remember this one. You</p> <p>12 understood at this point in time -- it says in</p> <p>13 my last communication with you on August 11,</p> <p>14 2020, do you see that in the fourth paragraph</p> <p>15 down?</p> <p>16 A. I see it.</p> <p>17 Q. Okay. By the way, you have seen</p> <p>18 this before. Did you see it on or around</p> <p>19 September 17, 2020? And I mean in that time</p> <p>20 period. Or have you seen it since that time</p> <p>21 period in connection with this case?</p> <p>22 A. I don't remember.</p> <p>23 Q. You don't remember. Did you read</p> <p>24 it when you first saw it?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>

<p>Page 262</p> <p>1 V. HOLMES</p> <p>2 Q. Did you read exhibit 43 when you</p> <p>3 first saw it?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I don't remember. But I remember</p> <p>6 this going -- you know, this happening.</p> <p>7 Q. Okay. And what is the "this"</p> <p>8 you're referring to when you say "this</p> <p>9 happening"?</p> <p>10 A. I remember Rudy Tauscher saying</p> <p>11 that we would go back to work possibly at the</p> <p>12 end of the year. Or that the decision was</p> <p>13 extended until the end of the year.</p> <p>14 Q. Okay. And so you remember --</p> <p>15 A. The verbiage.</p> <p>16 Q. I'm sorry. Go ahead?</p> <p>17 A. The verbiage.</p> <p>18 Q. The verbiage. Do you remember the</p> <p>19 prior date, the October 15, 2020 date being</p> <p>20 referenced at the same time?</p> <p>21 A. I don't remember that.</p> <p>22 Q. Okay. Anything else that you</p> <p>23 recall about this, exhibit 43?</p> <p>24 A. I don't remember anything else.</p> <p>25 Q. What was happening at the hotel, to</p>	<p>Page 263</p> <p>1 V. HOLMES</p> <p>2 the extent of your knowledge, during the time</p> <p>3 period let's say after June of 2020 until the</p> <p>4 end of year-end 2020?</p> <p>5 A. Repeat that?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 Q. Yeah. In terms of what was</p> <p>8 happening inside the structure, the building</p> <p>9 of the hotel from June of 2020 until year-end</p> <p>10 2020, do you have any knowledge or</p> <p>11 understanding of what was going on?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I don't know.</p> <p>14 Q. Did you have any conversations with</p> <p>15 any of the folks you know who continued to</p> <p>16 work there about what was going on?</p> <p>17 A. I don't remember.</p> <p>18 Q. Did you have any understanding</p> <p>19 about discussions or things at the hotel about</p> <p>20 how to make it safer, now with the lessons</p> <p>21 learned from COVID?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't know.</p> <p>24 Q. When you were at the hotel, after</p> <p>25 COVID struck but before they closed down to</p>
<p>Page 264</p> <p>1 V. HOLMES</p> <p>2 outside operations, I want to focus on that</p> <p>3 time period, just before March 20 of 2020,</p> <p>4 were there protocols put in place to ensure</p> <p>5 health and safety, given the fact that COVID</p> <p>6 had broken out but the hotel was still open?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I don't understand.</p> <p>9 Q. Yeah, sure. There was a time</p> <p>10 period after COVID was revealed before the</p> <p>11 hotel actually closed down to guests from, you</p> <p>12 know, taking reservations, right?</p> <p>13 A. Okay.</p> <p>14 Q. That's true, right? You recall</p> <p>15 that, right?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Do I recall them stopping guests</p> <p>18 from coming in?</p> <p>19 Q. Yes. Do you recall that COVID was</p> <p>20 discovered in the United States --</p> <p>21 A. Mm-hmm.</p> <p>22 Q. -- and there was a time period</p> <p>23 between that date and the time that it got so</p> <p>24 bad that the hotel and other businesses closed</p> <p>25 down?</p>	<p>Page 265</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I don't understand.</p> <p>4 Q. Okay. The hotel closed down March</p> <p>5 20 of 2020, right?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 Q. Ceased taking outside reservations</p> <p>8 and outside guests?</p> <p>9 A. I don't remember.</p> <p>10 Q. You don't know?</p> <p>11 A. I don't know. I don't remember.</p> <p>12 Q. Did you work at the hotel at a time</p> <p>13 period in March of 2020 before it shut down to</p> <p>14 outside guests?</p> <p>15 A. I worked at the hotel before they</p> <p>16 shut down to outside guests.</p> <p>17 Q. Yes. And specifically in March of</p> <p>18 2020, like during those first several weeks of</p> <p>19 March?</p> <p>20 A. I worked in March.</p> <p>21 Q. Okay. And were there any protocols</p> <p>22 or directives put in place to guard against</p> <p>23 the transmission of COVID-19 during that time</p> <p>24 period?</p> <p>25 A. I don't remember.</p>

<p>Page 266</p> <p>1 V. HOLMES</p> <p>2 Q. You don't remember there being like</p> <p>3 an a no handshake policy?</p> <p>4 A. I don't remember.</p> <p>5 Q. You don't remember whether they</p> <p>6 were telling people to keep distance from one</p> <p>7 another during that time period?</p> <p>8 A. I don't remember.</p> <p>9 Q. During the time period that you</p> <p>10 were doing payroll, before you stopped doing</p> <p>11 payroll at the end of June-ish in 2020, is</p> <p>12 that fair, right around there?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. Stopped doing payroll when?</p> <p>15 Q. In 2020. I think you said you</p> <p>16 continued to do work on a reduced time basis</p> <p>17 doing the payroll for your department after</p> <p>18 COVID struck up to a certain point in time,</p> <p>19 right?</p> <p>20 A. From home, or from --</p> <p>21 Q. Yes, from home.</p> <p>22 A. Oh, from home? Yes, I was working</p> <p>23 one day per week.</p> <p>24 Q. Okay. What efforts were going on</p> <p>25 at the hotel to retrofit or refit things to</p>	<p>Page 267</p> <p>1 V. HOLMES</p> <p>2 account for the possibility of contamination</p> <p>3 from COVID spreading?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I don't know.</p> <p>6 Q. Do you know whether there was</p> <p>7 anything going on?</p> <p>8 A. I don't know.</p> <p>9 (Defendants' Exhibit 44, FSR 0058</p> <p>10 was marked for identification).</p> <p>11 Q. Ms. Holmes, I'm handing you what</p> <p>12 has been marked as exhibit 44, which for the</p> <p>13 record is a document bearing the Bates number</p> <p>14 FSR 0058. My first question, ma'am, is have</p> <p>15 you seen exhibit 44 before?</p> <p>16 (The witness reviews document.)</p> <p>17 A. I don't remember seeing it, but I</p> <p>18 do know of it.</p> <p>19 Q. You knew about the change?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Was information like that</p> <p>22 shared outside of Four Seasons employees, to</p> <p>23 your knowledge?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't know.</p>
<p>Page 268</p> <p>1 V. HOLMES</p> <p>2 Q. So with respect to the documents</p> <p>3 we've been looking at that are in that nice</p> <p>4 little Four Seasons stationery that we see</p> <p>5 there at the top, were those, the</p> <p>6 communications that we've been looking at, in</p> <p>7 your understanding, internal communications</p> <p>8 only or were they sent to people who were not</p> <p>9 employees?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't know.</p> <p>12 (Defendants' Exhibit 45, Staley</p> <p>13 v FSR 0001 was marked for</p> <p>14 identification).</p> <p>15 Q. I am handing you, ma'am, what has</p> <p>16 been marked as exhibit 45 which for the record</p> <p>17 is a document bearing the Bates number Staley</p> <p>18 v FSR 0001. I think I sort of got to this a</p> <p>19 little bit when we were talking earlier, but I</p> <p>20 wanted to confirm, ma'am. Have you ever seen</p> <p>21 this email before?</p> <p>22 (The witness reviews document.)</p> <p>23 A. I don't remember it.</p> <p>24 Q. Do you know whether this was a</p> <p>25 document that you found in your email and</p>	<p>Page 269</p> <p>1 V. HOLMES</p> <p>2 produced in this lawsuit?</p> <p>3 A. I don't remember.</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I don't remember.</p> <p>6 Q. Have you seen emails before,</p> <p>7 ma'am -- do you understand what group email</p> <p>8 addresses are, in terms of sending things out</p> <p>9 to a group?</p> <p>10 A. I understand what a group email is.</p> <p>11 Q. Yes. And do you see that under</p> <p>12 Elizabeth Ortiz from, there's a date for a</p> <p>13 sent date and then there's to, right?</p> <p>14 A. I see that.</p> <p>15 Q. Okay. And do you see NYF All Staff</p> <p>16 DST, and then there are some carets, and then</p> <p>17 an address, right? All Staff NYF DST</p> <p>18 @Fourseasons.com?</p> <p>19 A. I see that.</p> <p>20 Q. Were you a recipient of emails</p> <p>21 addressed to that group in 2020?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't know.</p> <p>24 Q. When you looked at your emails to</p> <p>25 produce them in this case did you look to see</p>

<p>Page 270</p> <p>1 V. HOLMES</p> <p>2 whether there were any emails addressed to the</p> <p>3 group email address, that were nonetheless in</p> <p>4 your email files?</p> <p>5 A. I don't remember.</p> <p>6 (Defendants' Exhibit 46, Staley</p> <p>7 v FSR 0059 was marked for</p> <p>8 identification).</p> <p>9 Q. I am handing you, ma'am, what has</p> <p>10 been marked as exhibit 46, which for the</p> <p>11 record is a document bearing the Bates number</p> <p>12 Staley v FSR 0059.</p> <p>13 Have you ever seen exhibit 46</p> <p>14 before, ma'am?</p> <p>15 (The witness reviews document.)</p> <p>16 A. I don't remember.</p> <p>17 Q. If you take a look, this is dated</p> <p>18 December 3 of 2020, is that right?</p> <p>19 A. That's what it says, yes.</p> <p>20 Q. And if you look at the second</p> <p>21 paragraph, the second sentence, it says most</p> <p>22 major attractions remain closed while</p> <p>23 restaurants suffer from several eliminations.</p> <p>24 Do you have any reason to believe that that's</p> <p>25 not true --</p>	<p>Page 271</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 Q. -- as of December 3, 2020?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I don't know whether it's true or</p> <p>6 not.</p> <p>7 Q. Okay. I know you don't. Do you</p> <p>8 have any reason to believe that it isn't true?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I don't know.</p> <p>11 Q. Okay. And it says travel</p> <p>12 restrictions are still prohibitive requiring</p> <p>13 travelers from 45 states to quarantine for at</p> <p>14 least four days. Right?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I'm sorry? What are you asking?</p> <p>17 Q. I was reading the next sentence,</p> <p>18 actually. It says travel restrictions are</p> <p>19 still prohibitive requiring travelers from 45</p> <p>20 states to quarantine for at least 4 days.</p> <p>21 That's what's written there, right?</p> <p>22 A. That's what's written there.</p> <p>23 Q. Do you know whether it's true or</p> <p>24 not?</p> <p>25 A. I don't know.</p>
<p>Page 272</p> <p>1 V. HOLMES</p> <p>2 Q. Do you have any reason to believe</p> <p>3 it's false?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I don't know.</p> <p>6 Q. I understand you don't know whether</p> <p>7 it's true or false. I want to know if you</p> <p>8 have any reason to believe it's false?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I can't answer that.</p> <p>11 Q. Okay. It says "In addition,</p> <p>12 coronavirus is now surging in states across</p> <p>13 the country as well as in several markets</p> <p>14 abroad, a situation that is expected to</p> <p>15 continue into the winter months."</p> <p>16 Right? At least that's what it</p> <p>17 says?</p> <p>18 A. That's what you read, yes.</p> <p>19 Q. Do you know whether that's true or</p> <p>20 false?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I don't know.</p> <p>23 Q. Do you have any reason to believe</p> <p>24 it's false?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 273</p> <p>1 V. HOLMES</p> <p>2 A. I can't answer that.</p> <p>3 (Defendants' Exhibit 47, Staley v</p> <p>4 FSR 0213 was marked for identification).</p> <p>5 Q. Ms. Holmes, I'm handing you what</p> <p>6 has been marked as exhibit 47, which for the</p> <p>7 record is a document bearing the Bates number</p> <p>8 Staley v FSR 0213. First of all, my question</p> <p>9 is if you have ever seen exhibit 47 before?</p> <p>10 (The witness reviews document.)</p> <p>11 A. No. I don't remember this.</p> <p>12 Q. Okay.</p> <p>13 A. In February of 2020?</p> <p>14 Q. Well, that's what I am going to</p> <p>15 point out, ma'am. That appears to be some</p> <p>16 snafu on the dates and I was wondering if you</p> <p>17 noticed that. Because in February 8 of 2020</p> <p>18 there had not been yet an announcement in</p> <p>19 December of 2020 that they were hopeful they</p> <p>20 were going to reopen at the end of April 2021,</p> <p>21 right? In other words COVID hadn't really hit</p> <p>22 in February of 2020, correct?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 Q. COVID hadn't really hit in February</p> <p>25 of 2020 yet, had it?</p>

<p>Page 274</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I can't answer that.</p> <p>4 Q. Okay. You don't remember seeing</p> <p>5 this document before?</p> <p>6 A. No, I don't.</p> <p>7 Q. Okay. I just want to ask you a</p> <p>8 couple of questions and see if this is your</p> <p>9 understanding. I'm going to point you to the</p> <p>10 time period of February 2021. I want to ask</p> <p>11 you if this is your understanding of the state</p> <p>12 of events in February of 2021, okay?</p> <p>13 And it says: "Unfortunately," this</p> <p>14 is the second paragraph, "given the current</p> <p>15 state of the pandemic, local and state</p> <p>16 restrictions and the continued lack of demand,</p> <p>17 a reopening in April is just not feasible."</p> <p>18 And you see the prior sentence says</p> <p>19 April of 2021.</p> <p>20 Is that your understanding of the</p> <p>21 state of affairs that existed in February of</p> <p>22 2021?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I don't know.</p> <p>25 Q. Okay. It says: While our primary</p>	<p>Page 275</p> <p>1 V. HOLMES</p> <p>2 concern has always been the health and safety</p> <p>3 of our employees and guests, it also needs to</p> <p>4 be financially viable for us to open [sic]</p> <p>5 right? It says that?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 Q. For us to reopen. Sorry. Do you</p> <p>8 see that sentence, ma'am?</p> <p>9 A. I see what you read, yes.</p> <p>10 Q. Did you have an understanding about</p> <p>11 whether it needed to be financially viable</p> <p>12 before the hotel could reopen?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. I don't know.</p> <p>15 Q. Okay. It says: "The hotels in our</p> <p>16 competitive set share the same challenges."</p> <p>17 Right?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. I don't know.</p> <p>20 Q. I'm not asking you to verify</p> <p>21 whether it's true or not. I just wanted to</p> <p>22 point out that that's what the sentence says?</p> <p>23 A. Yes. That's what you read.</p> <p>24 Q. Okay. Who were the hotels that you</p> <p>25 considered to be in the same competitive set,</p>
<p>Page 276</p> <p>1 V. HOLMES</p> <p>2 I'm just using that word, as the Four Seasons</p> <p>3 New York at 57th?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. During what time? Like what are</p> <p>6 you --</p> <p>7 Q. Let's say in 2020, 2021. What were</p> <p>8 the other hotels?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 Q. That you considered to be the</p> <p>11 peers, you know, the equals to the Four</p> <p>12 Seasons New York on 57th?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. The Ritz-Carlton.</p> <p>15 Q. Okay.</p> <p>16 A. The St. Regis. The Mandarin. To</p> <p>17 name a few.</p> <p>18 Q. Which of those hotels, if any, was</p> <p>19 reopened in February of 2021?</p> <p>20 A. I don't know.</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 Q. If you look, ma'am, at the</p> <p>23 paragraph that says: Given that this</p> <p>24 continues to be an evolving situation with</p> <p>25 several unknowns, do you see that paragraph?</p>	<p>Page 277</p> <p>1 V. HOLMES</p> <p>2 I just want to direct you to it.</p> <p>3 A. Yes, I see the paragraph.</p> <p>4 Q. And it says: "Once the pandemic</p> <p>5 conditions improve and demand increases our</p> <p>6 goal is to confirm a reopening date with you</p> <p>7 approximately 60 to 90 days in advance of</p> <p>8 reopening the hotel." Correct?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. That's what you read.</p> <p>11 Q. Yeah. Did there come a time where</p> <p>12 instead of giving like an October 15, 2020,</p> <p>13 December 2020, April 2021, it switched over to</p> <p>14 an uncertainty as to the precise date that the</p> <p>15 hotel would reopen?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. I don't remember.</p> <p>18 (Defendants' Exhibit 48, Staley</p> <p>19 v FSR 0060 was marked for</p> <p>20 identification).</p> <p>21 Q. Ms. Holmes, I am handing you what</p> <p>22 has been marked as exhibit 48, which for the</p> <p>23 record is a document bearing the Bates number</p> <p>24 Staley v FSR 0060.</p> <p>25 And my question is have you ever</p>

<p>Page 278</p> <p>1 V. HOLMES</p> <p>2 seen exhibit 48 before?</p> <p>3 (The witness reviews document.)</p> <p>4 A. I don't remember it.</p> <p>5 Q. All right. Is this one of the</p> <p>6 documents that you found and turned over to be</p> <p>7 produced in this case?</p> <p>8 ATTORNEY BRUSTEIN: Objection. Do</p> <p>9 not answer about whether or not you</p> <p>10 turned it over.</p> <p>11 Q. Okay. Is this one of the documents</p> <p>12 you found to be produced in this case?</p> <p>13 A. I don't remember.</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 Q. You don't remember, okay. If you</p> <p>16 take a look, ma'am, at the paragraph that</p> <p>17 begins "We look forward to connecting."</p> <p>18 A. Okay. I see it.</p> <p>19 Q. It says: "We look forward to</p> <p>20 connecting with you next week at our virtual</p> <p>21 town hall scheduled on Wednesday, March 31, at</p> <p>22 3 p.m."</p> <p>23 Did you participate in a virtual</p> <p>24 town hall on March 31?</p> <p>25 A. I don't remember.</p>	<p>Page 279</p> <p>1 V. HOLMES</p> <p>2 Q. Did you record any other town hall</p> <p>3 meetings or just the one in June of 2021?</p> <p>4 A. I don't remember.</p> <p>5 Q. If you looked at your phone or</p> <p>6 someplace else -- well, strike that.</p> <p>7 I thought you told me, but tell me</p> <p>8 if I'm wrong. The file that you, the actual</p> <p>9 audio recording that you made of the meeting</p> <p>10 in June of 2021, that's on your phone, is that</p> <p>11 right?</p> <p>12 A. The recording from June?</p> <p>13 Q. Yes. That's contained on your</p> <p>14 phone?</p> <p>15 A. I do have it on my phone.</p> <p>16 Q. Okay. And you recorded it on your</p> <p>17 phone, am I right about that?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Did you look on your phone</p> <p>20 to see if you recorded any other meetings or</p> <p>21 conversations?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't remember if I looked.</p> <p>24 Q. Okay. Can you look now?</p> <p>25 ATTORNEY BRUSTEIN: Objection. No,</p>
<p>Page 280</p> <p>1 V. HOLMES</p> <p>2 I'm directing her not to. If you want a</p> <p>3 discovery demand, you can put it in</p> <p>4 writing and we'll consider it.</p> <p>5 Q. You are not going to take a look at</p> <p>6 your phone? You're following his</p> <p>7 instructions? That's fine.</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 You're really crossing the line here.</p> <p>10 ATTORNEY BOLAND: I don't see a</p> <p>11 line on the table.</p> <p>12 ATTORNEY BRUSTEIN: That's clever.</p> <p>13 ATTORNEY BOLAND: You may answer.</p> <p>14 ATTORNEY BRUSTEIN: No, she may</p> <p>15 not. I'm directing her not to.</p> <p>16 (Defendants' Exhibit 49, Staley</p> <p>17 v FSR 0069 to 80 was marked for</p> <p>18 identification).</p> <p>19 Q. Ms. Holmes, I am handing you what</p> <p>20 has been marked as exhibit 49, which for the</p> <p>21 record is a document bearing the Bates number</p> <p>22 Staley v FSR 0069 to 80.</p> <p>23 Have you seen exhibit 49 before?</p> <p>24 (The witness reviews document.)</p> <p>25 A. Yes.</p>	<p>Page 281</p> <p>1 V. HOLMES</p> <p>2 Q. Is this one of the documents that</p> <p>3 you identified for production in this case?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I'm not sure.</p> <p>6 Q. You don't know whether this came</p> <p>7 from your files or somebody else's files to be</p> <p>8 produced?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I don't remember.</p> <p>11 Q. If you take a look -- what is</p> <p>12 exhibit 49, ma'am?</p> <p>13 A. COBRA continuation of coverage.</p> <p>14 Q. Okay. And what was the purpose of</p> <p>15 it, to your understanding?</p> <p>16 A. Eligibility for COBRA.</p> <p>17 Q. If we take a look down under the</p> <p>18 box that's sort of shaded, there's a sentence</p> <p>19 that says coverage provided by Four Seasons</p> <p>20 and then it goes on? Do you see where I'm</p> <p>21 referring to?</p> <p>22 A. Yes I see it.</p> <p>23 Q. And it talks about the qualifying</p> <p>24 event and involuntary reduction of work hours,</p> <p>25 right?</p>

<p>Page 282</p> <p>1 V. HOLMES</p> <p>2 A. Yes, I see that.</p> <p>3 Q. And it talks about then the COBRA</p> <p>4 effective date, 5/1/2021, right?</p> <p>5 A. Yes, I see that.</p> <p>6 Q. And it says the duration of</p> <p>7 coverage, 18 months, right?</p> <p>8 A. I see that.</p> <p>9 Q. Okay. And then you obviously are</p> <p>10 identified as the person eligible down below,</p> <p>11 right?</p> <p>12 A. I see my name.</p> <p>13 Q. And all of those facts are</p> <p>14 accurate, right?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I see that.</p> <p>17 Q. Are those facts accurate? In other</p> <p>18 words the qualifying event to your</p> <p>19 understanding was an involuntary reduction of</p> <p>20 work hours, right?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I see that. That's what it says</p> <p>23 there.</p> <p>24 Q. I understand that. I'm asking you</p> <p>25 is that to your understanding, ma'am,</p>	<p>Page 283</p> <p>1 V. HOLMES</p> <p>2 accurate?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't know.</p> <p>5 Q. You have no idea whether or not</p> <p>6 it's accurate?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay.</p> <p>9 (Defendants' Exhibit 50, Staley</p> <p>10 v FSR 0061 was marked for</p> <p>11 identification).</p> <p>12 Q. Ma'am, I am handing you what has</p> <p>13 been marked as exhibit 50, which for the</p> <p>14 record is a document bearing the Bates number</p> <p>15 Staley v FSR 0061. And my first question,</p> <p>16 ma'am, is have you ever seen exhibit 50</p> <p>17 before?</p> <p>18 (The witness reviews document.)</p> <p>19 A. Yes, I remember this.</p> <p>20 Q. Okay. And is this one of the</p> <p>21 documents that you identified in your files to</p> <p>22 be produced?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I don't know.</p> <p>25 Q. You don't know whether you had this</p>
<p>Page 284</p> <p>1 V. HOLMES</p> <p>2 or not?</p> <p>3 A. I've seen this.</p> <p>4 Q. No, I understand that, ma'am. I</p> <p>5 was wondering if you knew you had this in your</p> <p>6 files?</p> <p>7 A. I don't remember.</p> <p>8 Q. Do you see it says in the paragraph</p> <p>9 that says, it says "We know everyone is keen</p> <p>10 to reopen our hotel and begin welcoming back</p> <p>11 guests. At this time, we will continue to</p> <p>12 remain closed, as the hotel will be undergoing</p> <p>13 substantial infrastructure and maintenance</p> <p>14 work that is expected to last well into 2022."</p> <p>15 Is this the communication you had</p> <p>16 referred to earlier when you had mentioned to</p> <p>17 me, and I'm not trying to quote you, that at</p> <p>18 one point it was said that the hotel was</p> <p>19 staying closed because of COVID, closed to the</p> <p>20 outside and then after that it was because of</p> <p>21 repair work?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I'm not sure.</p> <p>24 Q. Okay. When did you learn that, as</p> <p>25 you testified earlier, the COVID effect on</p>	<p>Page 285</p> <p>1 V. HOLMES</p> <p>2 keeping the hotel closed had given way or</p> <p>3 changed into a concept of repairs and</p> <p>4 infrastructure work?</p> <p>5 A. I don't remember.</p> <p>6 Q. What, if anything, have you done</p> <p>7 since June of 2021 to determine for yourself</p> <p>8 what work is being done, if any, at the hotel?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I don't know.</p> <p>11 Q. No, I know you don't know. What</p> <p>12 did you do to try to find out, if anything?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. I can't answer that.</p> <p>15 Q. Well, sure. I'm trying to ask you,</p> <p>16 ma'am: Did you make any efforts, you</p> <p>17 personally make any efforts after June of 2021</p> <p>18 up until today to find out what work, if any,</p> <p>19 is actually going on in terms of repair,</p> <p>20 infrastructure work at the hotel?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I haven't done anything.</p> <p>23 Q. Pardon?</p> <p>24 A. I have not done anything.</p> <p>25 Q. You haven't had communications with</p>

<p>Page 286</p> <p>1 V. HOLMES</p> <p>2 any of the folks you know who are still</p> <p>3 working there?</p> <p>4 A. Oh, I don't remember.</p> <p>5 Q. Who do you know, if anyone, who is</p> <p>6 still working there right now?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay. Who, if anyone, do you know</p> <p>9 that was still working there after, let's say</p> <p>10 at any point after June of 2021?</p> <p>11 A. I don't remember.</p> <p>12 Q. Is there anybody, putting aside the</p> <p>13 names, are you aware of knowing people who</p> <p>14 were still working there or you're just</p> <p>15 blanking on that?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Could you ask the question again?</p> <p>18 Q. Yeah.</p> <p>19 A. You're going pretty fast --</p> <p>20 Q. I am?</p> <p>21 A. -- with a lot of questions and, you</p> <p>22 know, if you could slow down that would help.</p> <p>23 Q. Sure.</p> <p>24 A. Thank you.</p> <p>25 Q. What I want to know is after June</p>	<p>Page 287</p> <p>1 V. HOLMES</p> <p>2 of 2021 can you identify any people you know</p> <p>3 who continued to work at the hotel?</p> <p>4 A. I don't remember.</p> <p>5 ATTORNEY BRUSTEIN: Can we take</p> <p>6 another five break?</p> <p>7 ATTORNEY BOLAND: Sure.</p> <p>8 ATTORNEY BRUSTEIN: Thank you.</p> <p>9 ---</p> <p>10 (Recess from 4:14 to 4:23.)</p> <p>11 ---</p> <p>12 (Defendants' Exhibit 51, Staley</p> <p>13 v FSR 0082 to 85 was marked for</p> <p>14 identification).</p> <p>15 Q. Ms. Holmes, I am handing you what</p> <p>16 has been marked as exhibit 51, which for the</p> <p>17 record is a document bearing the Bates number</p> <p>18 Staley v FSR 0082 to 85.</p> <p>19 Have you ever seen exhibit 51?</p> <p>20 (The witness reviews document.)</p> <p>21 A. Yes.</p> <p>22 Q. You have, okay. Is this one of the</p> <p>23 documents that you retrieved from your files</p> <p>24 to be produced?</p> <p>25 A. I don't remember.</p>
<p>Page 288</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. This one you recognize. Is</p> <p>3 there a reason you could tell me why you</p> <p>4 remembered this one versus some of the other</p> <p>5 ones we saw?</p> <p>6 A. I just remember this one.</p> <p>7 Q. Okay. And this was one of the</p> <p>8 information memos or some sort that was sent</p> <p>9 out, this one's dated July 9 of 2021, correct?</p> <p>10 A. That's what it says.</p> <p>11 Q. Yes. On the page 85 -- sorry. The</p> <p>12 Bates number 85. The one that we talked about</p> <p>13 that little number in the lower right-hand</p> <p>14 corner.</p> <p>15 A. Yes.</p> <p>16 Q. You'll see we have the two boxes,</p> <p>17 the one for anniversaries and the one for</p> <p>18 birthdays, each during the period of July 3</p> <p>19 through 15?</p> <p>20 A. Yes, I see it.</p> <p>21 Q. And if you look at the folks with</p> <p>22 the anniversary dates, do you recognize any of</p> <p>23 those names?</p> <p>24 A. Yes.</p> <p>25 Q. Who do you recognize?</p>	<p>Page 289</p> <p>1 V. HOLMES</p> <p>2 A. Lyneate Agyeman, Edward Nieves, Li</p> <p>3 Hong, Pamela Mapp, Winnie Chan, Uddin, Martin</p> <p>4 Munoz, Maribel Rodriguez. And I believe Tara.</p> <p>5 I don't remember her last name.</p> <p>6 Q. Had any of those folks left their</p> <p>7 employment with the hotel prior to the date</p> <p>8 here of July 3 to 15, when they're reported</p> <p>9 with having their service anniversaries?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't know.</p> <p>12 Q. Were they still employees as of</p> <p>13 this time period, you know, July 9 of 2021?</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 A. I don't know.</p> <p>16 Q. Are they still employees today?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't know.</p> <p>19 Q. Have you ever seen in any of these</p> <p>20 documents, ma'am, a service anniversary being</p> <p>21 reported for an employee who was no longer</p> <p>22 employed by the company at the time that the</p> <p>23 list was posted?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't remember.</p>

<p>Page 290</p> <p>1 V. HOLMES</p> <p>2 (Defendants' Exhibit 52, Staley</p> <p>3 v FSR 0062 to 64 was marked for</p> <p>4 identification).</p> <p>5 Q. I am handing you what has been</p> <p>6 marked as exhibit 52, which for the record is</p> <p>7 a document bearing the Bates number Staley</p> <p>8 v FSR 0062 to 64.</p> <p>9 And my first question is do you</p> <p>10 recognize exhibit 52?</p> <p>11 (The witness reviews document.)</p> <p>12 A. Yes, I remember this.</p> <p>13 Q. You remember this?</p> <p>14 A. Mm-hmm.</p> <p>15 Q. Okay. When you say you remember</p> <p>16 this one, and you remember the other one, that</p> <p>17 is because you received them or saw them in</p> <p>18 some fashion at or around the time that</p> <p>19 they're dated, meaning, you know, the last one</p> <p>20 was July of 2021, this one's November of 2021,</p> <p>21 right?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't remember that.</p> <p>24 Q. Okay. You wouldn't have seen them</p> <p>25 before the time period that they were dated,</p>	<p>Page 291</p> <p>1 V. HOLMES</p> <p>2 would you have?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't know.</p> <p>5 Q. Did you ever see any of these</p> <p>6 before the time period that they were dated;</p> <p>7 in other words, you know, before the very</p> <p>8 first date?</p> <p>9 A. I'm not sure.</p> <p>10 Q. Okay. Do you have a recollection</p> <p>11 of that ever happening?</p> <p>12 A. I'm not sure.</p> <p>13 Q. You're not sure whether you have a</p> <p>14 recollection of it, or do you have a</p> <p>15 recollection of it?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. I don't understand.</p> <p>18 Q. Yeah, I understand you're not sure</p> <p>19 whether you saw one beforehand or not, before</p> <p>20 the date of it. I get that.</p> <p>21 My question is do you have a</p> <p>22 recollection of that ever happening?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I do not have an understanding of</p> <p>25 that.</p>
<p>Page 292</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. You don't have a</p> <p>3 recollection of it, right?</p> <p>4 A. Uh-uh.</p> <p>5 Q. Okay. You'll see here again we</p> <p>6 have got, on the second page, a list of</p> <p>7 birthdays.</p> <p>8 A. Yes.</p> <p>9 Q. And you look at this list, can you</p> <p>10 identify anyone here that you know was not</p> <p>11 employed by the hotel as of November of 2021?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I don't know that.</p> <p>14 Q. Okay. And the anniversaries are on</p> <p>15 the next page, but obviously we can't see</p> <p>16 that.</p> <p>17</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 Q. Is exhibit 52 one of the</p> <p>20 documents -- and if I asked you this I</p> <p>21 apologize -- one of the documents that you</p> <p>22 found in your files to be produced in this</p> <p>23 case?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't remember.</p>	<p>Page 293</p> <p>1 V. HOLMES</p> <p>2 (Defendants' Exhibit 53, Staley</p> <p>3 v FSR 0050 to 51 was marked for</p> <p>4 identification).</p> <p>5 Q. I am handing you, ma'am, what has</p> <p>6 been marked as exhibit 53, which is a document</p> <p>7 bearing the Bates numbers Staley v FSR 0050 to</p> <p>8 51.</p> <p>9 Have you ever seen this before?</p> <p>10 A. Yes.</p> <p>11 Q. What is it?</p> <p>12 A. It's my W-2 statement.</p> <p>13 Q. For what year, man?</p> <p>14 A. 2020.</p> <p>15 Q. Okay. Is this one of the documents</p> <p>16 that you located to be produced in this case?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't remember.</p> <p>19 Q. You don't remember whether this was</p> <p>20 a document that you found to be produced?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I don't remember.</p> <p>23 Q. Okay. Let's take a look a couple</p> <p>24 of things, ma'am. You had mentioned before I</p> <p>25 think, and tell me if I'm wrong, that one of</p>

<p>Page 294</p> <p>1 V. HOLMES</p> <p>2 the places you looked for documents was on the</p> <p>3 ADP system?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. Yes.</p> <p>6 Q. Okay. As you sit here today you</p> <p>7 don't know if this is one of the documents</p> <p>8 that you found to be produced on that system?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. That is correct. I don't remember.</p> <p>11 Q. All right. You had been receiving</p> <p>12 W-2s, as I understand it annually for the</p> <p>13 entire time period that you were employed,</p> <p>14 right?</p> <p>15 A. Yes. Every year.</p> <p>16 Q. Every year. Okay. This one is for</p> <p>17 the year end of 2020? Year-end 2020, right?</p> <p>18 A. Yes. That's what it says.</p> <p>19 Q. And who is your employer?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. The Four --</p> <p>22 Q. Who is your employer on the W-2?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 You're asking two different questions.</p> <p>25 ATTORNEY BOLAND: No, I'm not.</p>	<p>Page 295</p> <p>1 V. HOLMES</p> <p>2 Q. You may answer.</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 Q. Who is identified as your employer</p> <p>5 on the W-2 that we have marked as exhibit 53?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. On the W -- on the W-2 it says</p> <p>8 Hotel 57 Services, LLC.</p> <p>9 Q. And did you get paid by check or by</p> <p>10 direct deposit or did it vary over time?</p> <p>11 A. It varied over time.</p> <p>12 Q. Did you start out like getting paid</p> <p>13 by check and then switched over to direct</p> <p>14 deposit?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay. When you were paid by check,</p> <p>17 up until the time -- what time did you switch</p> <p>18 over?</p> <p>19 A. I don't remember.</p> <p>20 Q. Who was the payor, what was the</p> <p>21 check drawn on? Who paid you prior to the</p> <p>22 time period that you moved to direct deposit?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I don't remember.</p> <p>25 Q. And in the direct deposit records</p>
<p>Page 296</p> <p>1 V. HOLMES</p> <p>2 do you get notification that there's been a</p> <p>3 deposit made to your account?</p> <p>4 A. Yes.</p> <p>5 Q. And it goes straight to the bank</p> <p>6 that you use, is that fair?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. It says direct deposit.</p> <p>9 Q. Yes, direct deposit into your bank?</p> <p>10 Your personal bank?</p> <p>11 A. Yes.</p> <p>12 Q. What bank is that?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. Citibank.</p> <p>15 Q. Citibank? Do you have access to</p> <p>16 statements from Citibank? In other words can</p> <p>17 you pull them online?</p> <p>18 A. I'm sure.</p> <p>19 Q. Did you make any effort to do that</p> <p>20 in response to the document request to produce</p> <p>21 documents in this case?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. I don't remember.</p> <p>24 Q. You don't remember whether you went</p> <p>25 to Citibank and looked for documents?</p>	<p>Page 297</p> <p>1 V. HOLMES</p> <p>2 A. Well, I didn't go to Citibank. But</p> <p>3 I don't remember pulling it, yes.</p> <p>4 Q. Pulling it from the website.</p> <p>5 Sorry.</p> <p>6 A. Mm-hmm.</p> <p>7 (Defendants' Exhibit 54, Staley</p> <p>8 v FSR 0020 to 21 was marked for</p> <p>9 identification).</p> <p>10 Q. I am handing you, Ms. Holmes, what</p> <p>11 has been marked as exhibit 54, which for the</p> <p>12 record is a document that bears the Bates</p> <p>13 number Staley v FSR 0020 to 21.</p> <p>14 Do you recognize exhibit 54?</p> <p>15 A. Yes.</p> <p>16 Q. And what is it?</p> <p>17 A. A W-2.</p> <p>18 Q. A W-2 for you?</p> <p>19 A. Yes.</p> <p>20 Q. And what is the year?</p> <p>21 A. 2021.</p> <p>22 Q. And is this one of the documents</p> <p>23 that you gathered to be produced in the case?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't remember.</p>

<p>Page 298</p> <p>1 V. HOLMES</p> <p>2 Q. Well, let me ask you a question,</p> <p>3 and this is just to understand. Do you have</p> <p>4 any understanding as to how your W-2s could</p> <p>5 have been produced by the plaintiffs in this</p> <p>6 case if you weren't the person to get them?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I'm not sure.</p> <p>9 Q. All right. And who is the employer</p> <p>10 identified on this W-2?</p> <p>11 A. It reads Hotel 57 Services, LLC.</p> <p>12 Q. So you were paid by Hotel 57</p> <p>13 Services, LLC in 2020, right?</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 A. I'm not sure.</p> <p>16 Q. Well, you got a W-2 from them. Did</p> <p>17 you not get that money that was reflected in</p> <p>18 the W-2?</p> <p>19 A. I see that it says Hotel 57</p> <p>20 Services in 2020, that's what you showed me.</p> <p>21 Q. Yes.</p> <p>22 A. Right.</p> <p>23 Q. You were paid, by whatever you want</p> <p>24 to call it, you were paid by the hotel if we</p> <p>25 want to put it that way, in 2020, were you</p>	<p>Page 299</p> <p>1 V. HOLMES</p> <p>2 not?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't know how to answer that.</p> <p>5 Q. Okay. You got a W-2 from Hotel 57</p> <p>6 Services, LLC for 2020, right?</p> <p>7 A. That is correct.</p> <p>8 Q. What did that relate to?</p> <p>9 A. To me working.</p> <p>10 Q. At the hotel?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So you were paid for working</p> <p>13 at the hotel in 2020, right?</p> <p>14 A. Yes.</p> <p>15 Q. You got a W-2 from Hotel 57</p> <p>16 Services, LLC for 2021, right?</p> <p>17 A. Yes.</p> <p>18 Q. What did that relate to?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. To working.</p> <p>21 Q. So you were paid by the hotel in</p> <p>22 2021, right?</p> <p>23 A. I was paid by -- correction. I was</p> <p>24 paid by the hotel in 2021 because I asked to</p> <p>25 be paid benefit time owed to me.</p>
<p>Page 300</p> <p>1 V. HOLMES</p> <p>2 Q. Okay?</p> <p>3 A. Because I needed money.</p> <p>4 Q. Fair enough. But you were still</p> <p>5 paid during 2021, right?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay.</p> <p>8 (Defendants' Exhibit 55, Staley</p> <p>9 v FSR 0027 was marked for</p> <p>10 identification).</p> <p>11 Q. I am handing you what has been</p> <p>12 marked as exhibit 55 which has the Bates</p> <p>13 number Staley v FSR 0027.</p> <p>14 A. Can I backtrack?</p> <p>15 Q. Yes.</p> <p>16 A. For 2021, sorry. That wasn't for</p> <p>17 benefit time.</p> <p>18 Q. Okay. Whatever it was for, you</p> <p>19 were paid some money?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. Yes, I was paid some money.</p> <p>22 Q. Okay. And I have handed you what</p> <p>23 has been marked as exhibit 56. Did I give it</p> <p>24 to you?</p> <p>25 A. 55.</p>	<p>Page 301</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: 55.</p> <p>3 ATTORNEY BOLAND: Oh, yes. 55, I'm</p> <p>4 sorry.</p> <p>5 Q. Do you recognize exhibit 55, ma'am?</p> <p>6 A. Yes.</p> <p>7 Q. What is it?</p> <p>8 A. It's my pay stub for vacation.</p> <p>9 Q. Okay. And when were you paid the</p> <p>10 vacation?</p> <p>11 A. In June 30 of 2022.</p> <p>12 Q. Okay. Is exhibit 55 one of the</p> <p>13 documents that you pulled and gathered to be</p> <p>14 produced in the case?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I'm not sure.</p> <p>17 Q. You don't know how it ended up in</p> <p>18 the production that plaintiffs made in the</p> <p>19 case?</p> <p>20 A. I'm not sure how I produced it. Or</p> <p>21 produced it.</p> <p>22 Q. You don't know whether you're the</p> <p>23 one who got this or not?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. Who is the employer</p>

<p>Page 302</p> <p>1 V. HOLMES</p> <p>2 identified on your earnings statement?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. On this paper it says Hotel 57</p> <p>5 Services, LLC, and it also says Four Seasons</p> <p>6 Hotel.</p> <p>7 Q. What does it say before Four</p> <p>8 Seasons Hotel?</p> <p>9 A. D/b/a.</p> <p>10 Q. What does that mean?</p> <p>11 A. I have no idea.</p> <p>12 Q. Okay. So we looked at some dates</p> <p>13 earlier about when the hotel stopped taking in</p> <p>14 visitors from outside. Just to take us back</p> <p>15 to that time period of March of 2020. Do you</p> <p>16 remember that, looking at documents that</p> <p>17 showed that?</p> <p>18 A. I remember you talking about it.</p> <p>19 Q. Do you remember when the hotel</p> <p>20 stopped taking visitors in, ma'am?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I don't remember the date.</p> <p>23 Q. Okay. Do you remember it was in</p> <p>24 March of 2020, putting aside whatever specific</p> <p>25 date it was?</p>	<p>Page 303</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I don't remember.</p> <p>4 Q. Do you remember it was around March</p> <p>5 of 2020?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. I don't remember.</p> <p>8 Q. So it could have been 2019; fair?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 Q. As far as you know?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 Q. Could it have been 2019, ma'am,</p> <p>13 that the hotel stopped taking visitors in</p> <p>14 because of COVID, based on your recollection?</p> <p>15 A. No.</p> <p>16 Q. Okay. It was in 2020, was it not?</p> <p>17 A. It was in 2020.</p> <p>18 Q. Okay. Within the first three</p> <p>19 months? The first four months? When was it?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I don't remember.</p> <p>22 Q. Was it in June? Was it in April?</p> <p>23 Can you give me any kind of -- anything other</p> <p>24 than it was in 2020?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>
<p>Page 304</p> <p>1 V. HOLMES</p> <p>2 A. No, I can't.</p> <p>3 Q. So it could have been July of 2020,</p> <p>4 based on your recollection of events, right?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I don't remember.</p> <p>7 Q. No, my question was different.</p> <p>8 Based on your recollection of events, and your</p> <p>9 inability to remember any date of it, it could</p> <p>10 have been July 2020 when the hotel stopped</p> <p>11 taking guests from the outside through</p> <p>12 reservations and the like, right?</p> <p>13 ATTORNEY BRUSTEIN: Objection. And</p> <p>14 that wasn't the question you were asking</p> <p>15 before.</p> <p>16 Q. You may answer.</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. It could be whatever you have on</p> <p>19 paper.</p> <p>20 Q. Okay.</p> <p>21 A. I don't know that.</p> <p>22 Q. All right. At some point in 2020,</p> <p>23 though, and you don't know when it was, the</p> <p>24 hotel stopped taking visitors from the outside</p> <p>25 through reservations, right?</p>	<p>Page 305</p> <p>1 V. HOLMES</p> <p>2 A. They stopped taking guests.</p> <p>3 Q. Stopped taking guests, thank you.</p> <p>4 That's a good way of putting it.</p> <p>5 You filed the lawsuit on, we looked</p> <p>6 earlier, in August of 2022, do you remember</p> <p>7 that?</p> <p>8 A. Yes.</p> <p>9 Q. Why did you sue in August of 2022?</p> <p>10 ATTORNEY BRUSTEIN: Objection. Do</p> <p>11 not answer.</p> <p>12 ATTORNEY BOLAND: Why?</p> <p>13 Q. You can answer.</p> <p>14 ATTORNEY BOLAND: She can answer</p> <p>15 the question.</p> <p>16 ATTORNEY BRUSTEIN: About the date</p> <p>17 that she filed the lawsuit?</p> <p>18 ATTORNEY BOLAND: Yes. The hotel</p> <p>19 shut down in 2020. She didn't file the</p> <p>20 lawsuit until 2022. I want to know why</p> <p>21 she filed in 2022.</p> <p>22 ATTORNEY BRUSTEIN: I am going to</p> <p>23 instruct her not to answer it to the</p> <p>24 extent that it calls for attorney-client</p> <p>25 communication.</p>

<p>Page 306</p> <p>1 V. HOLMES</p> <p>2 Q. You can answer, ma'am. Why did you</p> <p>3 file in 2022?</p> <p>4 A. I can't answer that.</p> <p>5 Q. Well, you told me that you went and</p> <p>6 you got -- you had a discussion about a</p> <p>7 referral with, I can't remember the person's</p> <p>8 name, I'm so sorry, and you got Mr. Brustein's</p> <p>9 name and Ms. Risman's name. Right?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 Q. Do you remember testifying to that</p> <p>12 earlier?</p> <p>13 A. Could you repeat that?</p> <p>14 Q. Yeah, sure. We talked earlier</p> <p>15 about how you found out about the lawyers in</p> <p>16 the case and you said you were referred to</p> <p>17 them, correct?</p> <p>18 A. That is correct.</p> <p>19 Q. Okay. And you had a conversation,</p> <p>20 and I think you said it was in 2021, over a</p> <p>21 year before you actually filed, with somebody</p> <p>22 who gave you those names; fair?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 Q. Is that accurate, ma'am?</p> <p>25 A. Yes.</p>	<p>Page 307</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. What prompted you to</p> <p>3 actually file a lawsuit, and I don't want to</p> <p>4 know what lawyers told you, I want to know why</p> <p>5 you made the decision to file a lawsuit in</p> <p>6 August of 2022?</p> <p>7 ATTORNEY BRUSTEIN: Objection. I</p> <p>8 direct her not to answer that question.</p> <p>9 Q. You're not going to tell me as the</p> <p>10 class representative in this case, a person</p> <p>11 who wants to be the class representative, why</p> <p>12 you sued in August of 2022?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 Just because you raise your voice</p> <p>15 doesn't make it an appropriate question.</p> <p>16 Q. You're not going to answer the</p> <p>17 question?</p> <p>18 A. I'm not going to answer it.</p> <p>19 Q. Okay. Did something happen, some</p> <p>20 event happen in the time period just prior or,</p> <p>21 or just before August of '22 to make you</p> <p>22 decide that you wanted to proceed towards a</p> <p>23 lawsuit?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. We weren't called back to work.</p>
<p>Page 308</p> <p>1 V. HOLMES</p> <p>2 Q. Well, okay. But you hadn't been</p> <p>3 called back to work in January of 2022,</p> <p>4 correct?</p> <p>5 A. That is correct.</p> <p>6 Q. And you didn't sue in January of</p> <p>7 2022, right?</p> <p>8 A. I think that's irrelevant, when I</p> <p>9 decided to sue. The entire city is open,</p> <p>10 okay? The hotels are open. Broadway's open.</p> <p>11 I feel that you guys deliberately were not</p> <p>12 opening the hotels for us were for other</p> <p>13 reasons other than for business.</p> <p>14 Q. Okay. Are you finished?</p> <p>15 A. I am.</p> <p>16 Q. All right.</p> <p>17 ATTORNEY BRUSTEIN: Let's take a</p> <p>18 five minute break.</p> <p>19 ATTORNEY BOLAND: No, I'm in the</p> <p>20 middle of a question.</p> <p>21 ATTORNEY BRUSTEIN: You're actually</p> <p>22 not.</p> <p>23 ATTORNEY BOLAND: Fine. Take the</p> <p>24 witness out. Go ahead. Go ahead.</p> <p>25 We'll take a break.</p>	<p>Page 309</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Thank you.</p> <p>3 ---</p> <p>4 (Recess from 4:44 to 4:52.)</p> <p>5 ---</p> <p>6 Q. Okay. Before we broke I was asking</p> <p>7 you what prompted you to sue in August of 22,</p> <p>8 when the hotel had been closed for a while in</p> <p>9 2020, 2021, and then throughout 2022, I was</p> <p>10 wondering if there was some sort of triggering</p> <p>11 event for you to make a decision yeah, I want</p> <p>12 to file a lawsuit?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. There wasn't a triggering event.</p> <p>15 It's just that enough is enough.</p> <p>16 Q. And that's because the hotel hadn't</p> <p>17 reopened, is that --</p> <p>18 A. The hotel has not reopened. They</p> <p>19 do not communicate properly. They're paying</p> <p>20 some people, they're not paying other people.</p> <p>21 They're giving severance to union employees at</p> <p>22 an amount that is not even contractual. Just</p> <p>23 a lot is going on with the hotel. I had been</p> <p>24 there for 20 something years and I feel that I</p> <p>25 deserve more than what has been given to me.</p>

<p>Page 310</p> <p>1 V. HOLMES</p> <p>2 And to others, just like myself.</p> <p>3 Q. Okay.</p> <p>4 A. They just want us to like</p> <p>5 disappear, get another job so that they don't</p> <p>6 have to deal with us.</p> <p>7 Q. Okay. So --</p> <p>8 A. And it's not fair.</p> <p>9 Q. And is it fair to say you reached a</p> <p>10 breaking point or so, so to speak, by August</p> <p>11 of '22 and that what's caused you to --</p> <p>12 A. You can call it whatever you want.</p> <p>13 It's just enough for me.</p> <p>14 Q. Enough for you, okay. Fair enough.</p> <p>15 Do you have the amended complaint that we</p> <p>16 asked you to keep out? If you haven't, that's</p> <p>17 fine.</p> <p>18 A. Yes, I do.</p> <p>19 Q. Let's take a look at the first</p> <p>20 page, ma'am. You've sued a number of</p> <p>21 different defendants, do you see that?</p> <p>22 A. I see that.</p> <p>23 Q. Okay. And I want to go through</p> <p>24 them and I want to ask you a little bit about</p> <p>25 each of them, okay?</p>	<p>Page 311</p> <p>1 V. HOLMES</p> <p>2 We looked at your W-2s and the</p> <p>3 employer's name and address and ZIP code was</p> <p>4 identified on those, and the employer was</p> <p>5 identified as Hotel 57 Services, LLC. Do you</p> <p>6 remember that?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I see the 57, LLC.</p> <p>9 Q. Yeah. And you saw it on your W-2s,</p> <p>10 correct?</p> <p>11 A. I see it on my W-2.</p> <p>12 Q. Okay. So you sued Hotel 57</p> <p>13 Services, LLC. What did Hotel 57 Services,</p> <p>14 LLC do wrong that caused you to sue it?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. That's what I have my attorneys</p> <p>17 for.</p> <p>18 Q. Well, I want to know if you have</p> <p>19 any understanding, ma'am, or any contention --</p> <p>20 your attorneys can't testify --</p> <p>21 ATTORNEY BOLAND: Strike that.</p> <p>22 Q. Your attorneys can't testify in the</p> <p>23 case. You understand you're going to testify</p> <p>24 at trial, right?</p> <p>25 A. Yes, I understand that.</p>
<p>Page 312</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. What I want to know is, I</p> <p>3 want to find out what your testimony is going</p> <p>4 to be about Hotel 57 Services, LLC, that's why</p> <p>5 we're taking the deposition. And I am asking</p> <p>6 you, in your understanding what did Hotel 57</p> <p>7 Services, LLC do that caused you to sue it?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I don't know how to answer that.</p> <p>10 Q. Okay. Why did you sue Hotel 57</p> <p>11 Services, LLC?</p> <p>12 A. To me all of these entities are all</p> <p>13 and the same. It's just you guys hiding</p> <p>14 behind companies.</p> <p>15 Q. Who is the "you guys" you're</p> <p>16 talking about?</p> <p>17 A. Four Seasons, Ty Warner. You know,</p> <p>18 whoever is paying me, since there's always</p> <p>19 different information. I don't know. These</p> <p>20 are all the entities.</p> <p>21 Q. Okay. So what I have to find out,</p> <p>22 ma'am, is what your personal knowledge is</p> <p>23 about Hotel 57 Services, LLC. Because I need</p> <p>24 to know what you are going to be able to</p> <p>25 testify to them at trial. What is Hotel 57</p>	<p>Page 313</p> <p>1 V. HOLMES</p> <p>2 Services, LLC?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't know.</p> <p>5 Q. Did you make any investigation</p> <p>6 before the complaint was filed to find out</p> <p>7 what Hotel 57 Services, LLC is?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I don't know what it is. I know</p> <p>10 that it's a name. It's on my paycheck. It's</p> <p>11 on, you know, documents. I see the Four</p> <p>12 Seasons and the Ty Warner and they're</p> <p>13 fighting. It's in newspapers, it's in</p> <p>14 magazines. Everyone is talking and names are</p> <p>15 thrown left and right.</p> <p>16 Q. Okay.</p> <p>17 A. So whatever sticks, you take.</p> <p>18 Q. Let's look at page 11 of your first</p> <p>19 amended complaint, ma'am.</p> <p>20 A. I'm sorry. Page what?</p> <p>21 Q. Page 11.</p> <p>22 A. Sure.</p> <p>23 Q. And you'll see that there's a</p> <p>24 section called Hotel 57 Services, LLC and then</p> <p>25 there's a colon after that, do you see that on</p>

<p>Page 314</p> <p>1 V. HOLMES</p> <p>2 the page?</p> <p>3 A. Number 67 you said?</p> <p>4 Q. It's right above 67.</p> <p>5 A. Okay.</p> <p>6 Q. And then you'll see that there are</p> <p>7 a number of numbered allegations starting at</p> <p>8 67 that continue on for a few pages up until</p> <p>9 92. Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. So by my count, ma'am, we've got 26</p> <p>12 numbered allegations in there. Do you see the</p> <p>13 words in, let's take 67, "information and</p> <p>14 belief"?</p> <p>15 A. I see that.</p> <p>16 Q. Okay. By my count 18 allegations</p> <p>17 have that heading, which is about 70 percent</p> <p>18 of the allegations about Hotel 57 Services,</p> <p>19 LLC. What --</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 That's a statistic you made up.</p> <p>22 Q. What does "upon information and</p> <p>23 belief" mean, based on your understanding?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't know what it means. I</p>	<p>Page 315</p> <p>1 V. HOLMES</p> <p>2 don't write it. That's what I have my</p> <p>3 attorneys for, to put in the language that you</p> <p>4 guys understand.</p> <p>5 Q. Okay. So you don't know what upon</p> <p>6 information and belief means, fair?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. Fair.</p> <p>9 Q. Okay. What, if anything, did you</p> <p>10 do to confirm the accuracy of any of the</p> <p>11 allegations in paragraphs 67 to 92?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I don't know how to answer that.</p> <p>14 Q. Did you do any investigation,</p> <p>15 ma'am, to determine what you were saying in</p> <p>16 paragraphs 67 to 92 of your first amended</p> <p>17 complaint was true?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. I don't know how to answer that.</p> <p>20 Q. You don't know how to answer that?</p> <p>21 A. No.</p> <p>22 Q. I'm sorry. I'm trying to ask the</p> <p>23 question as clearly as possible. I apologize</p> <p>24 if I am not.</p> <p>25 Did you conduct any investigation,</p>
<p>Page 316</p> <p>1 V. HOLMES</p> <p>2 yourself, research, anything, to determine</p> <p>3 whether the allegations in paragraphs 67 to 92</p> <p>4 of your first amended complaint were true?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. Again, I don't know how to answer</p> <p>7 that.</p> <p>8 Q. Well, let's take a look at one of</p> <p>9 them. It says, 86: Hotel 57 Services --</p> <p>10 ATTORNEY BRUSTEIN: What page?</p> <p>11 ATTORNEY BOLAND: I'm sorry. Page</p> <p>12 13. Paragraph 86.</p> <p>13 A. 13?</p> <p>14 Q. Yes, it's on page 13. "Hotel 57</p> <p>15 Services, LLC managed the hotel."</p> <p>16 Right? That's your allegation?</p> <p>17 A. I see it.</p> <p>18 Q. Okay. And that's not on</p> <p>19 information and belief, right? That doesn't</p> <p>20 have that language in there, correct?</p> <p>21 A. I don't understand the question.</p> <p>22 Q. It doesn't have the words "upon</p> <p>23 information and belief" starting it the way</p> <p>24 many of the other allegations do, correct?</p> <p>25 A. That is correct.</p>	<p>Page 317</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. Did you do anything to</p> <p>3 determine whether this statement, "Hotel 57</p> <p>4 Services, LLC managed the hotel," was true or</p> <p>5 not true?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. I don't know how to answer that.</p> <p>8 Q. Okay. Does Hotel 57 Services, LLC</p> <p>9 actually manage the Four Seasons Hotel?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't know.</p> <p>12 Q. Okay. Did you try to find out</p> <p>13 whether it did or not before the complaint was</p> <p>14 filed?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I don't know how to answer that.</p> <p>17 Q. I'm trying to see what I'm not --</p> <p>18 what I am asking about, ma'am --</p> <p>19 A. I don't understand your question.</p> <p>20 I don't understand.</p> <p>21 Q. Okay. You have made allegations</p> <p>22 against a number of different parties in this</p> <p>23 case, Hotel 57 Services, LLC being one of</p> <p>24 them, right?</p> <p>25 A. I've made allegations towards the</p>

<p>Page 318</p> <p>1 V. HOLMES</p> <p>2 hotel.</p> <p>3 Q. Yes. Well, towards Hotel 57</p> <p>4 Services, LLC in these paragraphs that we're</p> <p>5 looking at now, right?</p> <p>6 A. Right.</p> <p>7 Q. I want to know if you did anything</p> <p>8 to determine whether what was being put in the</p> <p>9 complaint about Hotel 57 Services, LLC was</p> <p>10 actually true or not true?</p> <p>11 A. Did I do anything as far as what?</p> <p>12 Q. Research, investigation --</p> <p>13 A. I have. I've seen things in</p> <p>14 magazines. I've seen things in the newspaper.</p> <p>15 I look at my paycheck, I see different names.</p> <p>16 I look up the Four Seasons, Toronto pops up,</p> <p>17 Chicago pops up.</p> <p>18 Q. Okay. What about Hotel 57</p> <p>19 Services, LLC --</p> <p>20 A. That's on my paycheck and on my</p> <p>21 W-2.</p> <p>22 Q. I understand that. And I</p> <p>23 understand that --</p> <p>24 A. So that's an investigation.</p> <p>25 Q. Okay.</p>	<p>Page 319</p> <p>1 V. HOLMES</p> <p>2 A. Once I look that up and it's there,</p> <p>3 then this makes this accurate.</p> <p>4 Q. That they manage the hotel?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I can't answer that.</p> <p>7 Q. Okay. Other than looking at your</p> <p>8 paycheck what else did you do to investigate</p> <p>9 Hotel 57 Services, LLC?</p> <p>10 A. I don't remember.</p> <p>11 Q. Did you do anything?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I can't answer that.</p> <p>14 Q. Okay. At trial, ma'am, what are</p> <p>15 you going to tell the judge Hotel 57 Services,</p> <p>16 LLC, that entity, did wrong?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. Violation of the WARN Act and</p> <p>19 no-fault separation pay. That's why --</p> <p>20 Q. So you think Hotel 57 Services, LLC</p> <p>21 violated the WARN Act -- okay?</p> <p>22 A. Yes.</p> <p>23 Q. -- and you also think that Hotel 57</p> <p>24 Services, LLC was required to pay you no-fault</p> <p>25 separation pay, is that fair?</p>
<p>Page 320</p> <p>1 V. HOLMES</p> <p>2 A. Yes.</p> <p>3 Q. Anything else that Hotel 57</p> <p>4 Services, LLC did wrong that you are going to</p> <p>5 tell the judge?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. I can't answer that right now.</p> <p>8 Q. Why not?</p> <p>9 A. Because I don't know.</p> <p>10 Q. You also have identified another</p> <p>11 entity, after Hotel 57 Services, LLC, called</p> <p>12 Hotel 57, LLC. What is Hotel 57, LLC?</p> <p>13 A. Isn't it the same thing we were</p> <p>14 talking about?</p> <p>15 Q. No, we were talking about Hotel 57</p> <p>16 Services, LLC. We're looking at the next</p> <p>17 entity, the next defendant you sued, Hotel 57</p> <p>18 Services -- Hotel 57, LLC. Take a look at the</p> <p>19 third line of the defendants, you'll see they</p> <p>20 look kind of similar. The first one's Hotel</p> <p>21 57 Services, LLC, do you see that?</p> <p>22 A. Are we still on page 13?</p> <p>23 Q. No.</p> <p>24 A. What page --</p> <p>25 Q. The front page. The first page.</p>	<p>Page 321</p> <p>1 V. HOLMES</p> <p>2 After Hotel 57 Services, LLC we have another</p> <p>3 defendant named, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And what is that defendant called?</p> <p>6 A. Hotel 57, LLC.</p> <p>7 Q. What is Hotel 57, LLC?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I can't answer that.</p> <p>10 Q. What investigation, if any, did you</p> <p>11 do to find out what Hotel 57, LLC is before</p> <p>12 you sued them in federal court?</p> <p>13 A. I can't answer that.</p> <p>14 Q. Why can't you answer that?</p> <p>15 A. I can't answer that right now.</p> <p>16 Q. Well, tell me why?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 Q. Is it because you don't know?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. Because I'm not sure. I don't</p> <p>21 remember.</p> <p>22 Q. Looking at paragraph -- I'm</p> <p>23 sorry -- page 14 to 15 I think of your first</p> <p>24 amended complaint, ma'am. You have got the</p> <p>25 same type of a heading with a colon of Hotel</p>

<p>Page 322</p> <p>1 V. HOLMES</p> <p>2 57, LLC, do you see that at the top of page</p> <p>3 14?</p> <p>4 A. I see that.</p> <p>5 Q. And then you have paragraphs 93 to</p> <p>6 107, right?</p> <p>7 A. I see that.</p> <p>8 Q. Okay. And you can go and count</p> <p>9 them, ma'am. I count eleven of them "upon</p> <p>10 information and belief." Right?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. What are you asking me?</p> <p>13 Q. Yeah. A lot of them, and you can</p> <p>14 count them, I count eleven, eleven of them</p> <p>15 begin with the words "upon information and</p> <p>16 belief," do they not?</p> <p>17 A. I don't know.</p> <p>18 Q. You don't know -- you don't see the</p> <p>19 words "upon information and belief" in these</p> <p>20 allegations from 93 to 107?</p> <p>21 A. Yes, I see that.</p> <p>22 Q. Okay.</p> <p>23 A. I don't see eleven of them.</p> <p>24 Q. Okay. You didn't count them,</p> <p>25 right?</p>	<p>Page 323</p> <p>1 V. HOLMES</p> <p>2 A. I didn't count them.</p> <p>3 Q. What investigation was done either</p> <p>4 by you or by anybody else, to your knowledge,</p> <p>5 to determine whether the allegations that were</p> <p>6 made in paragraphs 93 to 107 were true?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I don't remember.</p> <p>9 Q. Was any investigation done?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't remember.</p> <p>12 Q. What did Hotel 57, LLC do wrong</p> <p>13 that caused you to sue them in federal</p> <p>14 district court?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. Violation of the WARN Act and</p> <p>17 no-fault separation pay.</p> <p>18 Q. And why was Hotel 57, LLC supposed</p> <p>19 to give you a WARN Act notice?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I can't answer that.</p> <p>22 Q. Why did you sue them, then?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. Because of the WARN Act violation</p> <p>25 and no-fault separation pay.</p>
<p>Page 324</p> <p>1 V. HOLMES</p> <p>2 Q. Well, I understand that. But you</p> <p>3 didn't sue the St. Regis hotel for the WARN</p> <p>4 Act violation, did you?</p> <p>5 A. I did not sue the St. Regis.</p> <p>6 Q. Because you would have sued --</p> <p>7 A. They didn't come up in any of the,</p> <p>8 you know, magazines and stuff.</p> <p>9 Q. Okay. I want to know why did you</p> <p>10 think that Hotel 57, LLC violated the WARN</p> <p>11 Act?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I can't answer that.</p> <p>14 Q. Why?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I can't answer that.</p> <p>17 Q. I understand you can't answer it.</p> <p>18 Why can't you tell me -- why can't you answer</p> <p>19 the question of why you sued them --</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 Q. Why you think they violated the</p> <p>22 WARN Act?</p> <p>23 A. Because they're hiding behind --</p> <p>24 this is all in the same. All of these</p> <p>25 entities are all the same.</p>	<p>Page 325</p> <p>1 V. HOLMES</p> <p>2 Q. They're all the same? How do you</p> <p>3 know that?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I can't answer that.</p> <p>6 Q. Why not?</p> <p>7 A. Because I'm not sure.</p> <p>8 Q. What are you going to tell the</p> <p>9 judge that Hotel 57, LLC did at trial? What</p> <p>10 are you going tell him that they did wrong?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. That they violated the WARN Act and</p> <p>13 no-fault separation pay.</p> <p>14 Q. And why was Hotel 57, LLC required</p> <p>15 to pay you no-fault separation pay?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. I can't answer that.</p> <p>18 Q. Why?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I can't answer that.</p> <p>21 Q. You've also sued Ty Warner Hotels,</p> <p>22 is that accurate? And I'll make the right</p> <p>23 name. Why don't we go to the very first page</p> <p>24 of your complaint. And on the, I think it's</p> <p>25 the fourth line of your list of defendants you</p>

<p>Page 326</p> <p>1 V. HOLMES</p> <p>2 have Ty Warner Hotels & Resorts, LLC, right?</p> <p>3 A. I see that.</p> <p>4 Q. What is Ty Warner Hotels & Resorts,</p> <p>5 LLC?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. I can't answer that.</p> <p>8 Q. Why can't you answer that? Do you</p> <p>9 not know?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I know that he's the owner of the</p> <p>12 Four Seasons.</p> <p>13 Q. He is a -- well, you understand,</p> <p>14 LLC is a limited liability company, right?</p> <p>15 A. I understand.</p> <p>16 Q. Okay. It's not a he or her,</p> <p>17 whatever -- well, I don't know anymore. But</p> <p>18 it doesn't have a gender.</p> <p>19 It's an it, right? It's an entity?</p> <p>20 A. Mm-hmm.</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 Q. Okay. Why did you sue Ty Warner</p> <p>23 Hotels & Resorts, LLC?</p> <p>24 A. For violation of the WARN Act and</p> <p>25 no-fault separation pay.</p>	<p>Page 327</p> <p>1 V. HOLMES</p> <p>2 Q. Who all was required to give you a</p> <p>3 WARN Act notice?</p> <p>4 A. Everyone that was hiding behind the</p> <p>5 Four Seasons and Ty Warner.</p> <p>6 Q. Who is that? What entities?</p> <p>7 A. I don't know. You tell me.</p> <p>8 Q. Well, you're the one who sued,</p> <p>9 ma'am. You're the one who started the lawsuit</p> <p>10 in court, right?</p> <p>11 A. And you're the one who is defending</p> <p>12 them.</p> <p>13 Q. You're the one who started the</p> <p>14 lawsuit in court, right?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 Q. I want to know why you, as the</p> <p>17 plaintiff in this case, sued this particular</p> <p>18 entity?</p> <p>19 ATTORNEY BRUSTEIN: Objection. Are</p> <p>20 you winking?</p> <p>21 ATTORNEY BOLAND: Me? No. I have</p> <p>22 contact lenses that go off center.</p> <p>23 ATTORNEY BRUSTEIN: I apologize.</p> <p>24 ATTORNEY BOLAND: Sometimes I go</p> <p>25 like this. (Indicating) I have not</p>
<p>Page 328</p> <p>1 V. HOLMES</p> <p>2 winked in decades.</p> <p>3 ATTORNEY RISMAN: Why do I find</p> <p>4 that hard to believe.</p> <p>5 ATTORNEY BOLAND: It's true. Yeah,</p> <p>6 you would find that hard to believe.</p> <p>7 Q. Why did you sue Ty Warner Hotels &</p> <p>8 Resorts, LLC?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. Because of the WARN Act violation</p> <p>11 and no-fault separation pay.</p> <p>12 Q. Okay. What are you going to come</p> <p>13 in and tell the court at trial Ty Warner</p> <p>14 Hotels & Resorts, LLC did wrong?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I can't answer that.</p> <p>17 Q. Why not?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. I can't answer that.</p> <p>20 Q. You can't answer why not? You</p> <p>21 can't tell me why you can't answer it?</p> <p>22 A. I can't answer.</p> <p>23 Q. Got it. And here on paragraphs</p> <p>24 108, I think it is, to 119 you have got I</p> <p>25 believe 12 numbered allegations here. Right?</p>	<p>Page 329</p> <p>1 V. HOLMES</p> <p>2 A. 108 --</p> <p>3 Q. To 119?</p> <p>4 A. -- to 119, yes.</p> <p>5 Q. Take a look at these, ma'am.</p> <p>6 They're all upon information and belief, are</p> <p>7 they not?</p> <p>8 A. I see that.</p> <p>9 Q. Okay. What investigation was done,</p> <p>10 if any, to determine what is alleged in</p> <p>11 paragraphs 108 to 119 is true or not true?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I cannot answer that.</p> <p>14 Q. And why can't you answer that?</p> <p>15 A. I cannot answer that.</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 Q. You also sued H. Ty Warner -- and</p> <p>18 this is on page 1 if you want to go back.</p> <p>19 Okay? Who is H. Ty Warner?</p> <p>20 A. An entity.</p> <p>21 Q. You think it's an entity and not a</p> <p>22 person?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I can't answer that.</p> <p>25 Q. You don't know who H. Ty Warner is,</p>

<p>Page 330</p> <p>1 V. HOLMES</p> <p>2 do you?</p> <p>3 A. I can't answer that.</p> <p>4 Q. You can't answer whether you know</p> <p>5 what it is or not?</p> <p>6 A. I can't answer.</p> <p>7 Q. Really? Okay. What did H. Ty</p> <p>8 Warner do wrong?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. Violation of the WARN Act and</p> <p>11 no-fault separation pay.</p> <p>12 Q. Okay. What are you going to tell</p> <p>13 the judge H. Ty Warner did wrong when you</p> <p>14 testify at trial?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. The same thing.</p> <p>17 Q. That H. Ty Warner violated the WARN</p> <p>18 Act?</p> <p>19 A. Yes.</p> <p>20 Q. How?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I can't answer that.</p> <p>23 Q. Well, you are going to just say he</p> <p>24 violated the WARN Act and not tell him how?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 331</p> <p>1 V. HOLMES</p> <p>2 A. I can't answer that.</p> <p>3 Q. Okay. And what about with anyone</p> <p>4 else, with any of the other defendants that</p> <p>5 you sued; how are you going to tell the judge</p> <p>6 they violated the WARN Act?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I can't answer that.</p> <p>9 Q. And what about with no-fault</p> <p>10 separation pay, how are you going to tell --</p> <p>11 what are you going to tell the judge about how</p> <p>12 any of them violated something with respect to</p> <p>13 no-fault separation pay?</p> <p>14 A. I can't answer that.</p> <p>15 Q. If you look at page 16 of your</p> <p>16 complaint. And you've got, from paragraphs</p> <p>17 120 to 133 following the identification of Ty</p> <p>18 Warner with a colon, correct?</p> <p>19 A. I see that.</p> <p>20 Q. And all of these, and you can take</p> <p>21 a look at them, ma'am, begin with the heading</p> <p>22 "Upon information and belief," do they not?</p> <p>23 A. Yes, I see that.</p> <p>24 Q. What investigation, if any, was</p> <p>25 gone before the lawsuits were filed to</p>
<p>Page 332</p> <p>1 V. HOLMES</p> <p>2 determine whether any of the allegations that</p> <p>3 are in paragraphs 120 to 133 of your first</p> <p>4 amended complaint were true or not true?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I can't answer that.</p> <p>7 Q. And why can't you answer that,</p> <p>8 ma'am?</p> <p>9 A. I can't answer that.</p> <p>10 Q. You can't answer why you can't</p> <p>11 answer?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. Mm-hmm.</p> <p>14 Q. Okay. So you have talked before</p> <p>15 that there are two things, I think, and tell</p> <p>16 me if I'm wrong, that you think the defendants</p> <p>17 did wrong. One of them was a violation of the</p> <p>18 WARN Act. Right?</p> <p>19 A. Yes.</p> <p>20 Q. And the other one was not paying</p> <p>21 no-fault separation pay, right?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 Q. You can answer.</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Anything else you think the</p>	<p>Page 333</p> <p>1 V. HOLMES</p> <p>2 defendants did wrong?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I can't answer that.</p> <p>5 Q. Well, I am asking you, ma'am. Is</p> <p>6 there anything else that you think that these</p> <p>7 defendants did wrong?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I can't answer that.</p> <p>10 Q. So the answer is no, there's</p> <p>11 nothing else you think they did wrong,</p> <p>12 correct?</p> <p>13 ATTORNEY BRUSTEIN: Objection;</p> <p>14 mischaracterizes of the testimony.</p> <p>15 A. I can't answer that.</p> <p>16 Q. Do you intend to testify at the</p> <p>17 trial, ma'am?</p> <p>18 A. Yes.</p> <p>19 Q. You do? You plan to testify in</p> <p>20 support of your claims, right?</p> <p>21 A. Yes.</p> <p>22 Q. And yet you can't tell me if</p> <p>23 there's anything else you think the defendants</p> <p>24 did wrong; fair?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>

<p>Page 334</p> <p>1 V. HOLMES</p> <p>2 A. I can't answer that.</p> <p>3 Q. Okay. Let's talk about the WARN</p> <p>4 Act if we could. I think if we look at page</p> <p>5 46 of your complaint we have a first cause of</p> <p>6 action, do we not, right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And it says violation of</p> <p>9 federal worker adjustment and restraining</p> <p>10 [sic] notification act.</p> <p>11 Do you understand that to be the</p> <p>12 WARN Act?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. I'm sorry?</p> <p>15 Q. Do you understand that to be the</p> <p>16 WARN Act?</p> <p>17 ATTORNEY BRUSTEIN: Objection. You</p> <p>18 may want to correct the record.</p> <p>19 Q. Violation of federal worker</p> <p>20 adjustment and restraining notification --</p> <p>21 restraining notification. Sorry.</p> <p>22 ATTORNEY BOLAND: Good point. It's</p> <p>23 not a restraining notification act.</p> <p>24 Q. Is that what you understand to be</p> <p>25 the WARN Act, ma'am?</p>	<p>Page 335</p> <p>1 V. HOLMES</p> <p>2 A. That is correct.</p> <p>3 Q. Okay. And then you also have</p> <p>4 another WARN Act claim, do you not, on page</p> <p>5 49?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And what are the differences</p> <p>8 between the two WARN Acts?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I can't answer that right now.</p> <p>11 Q. Why not?</p> <p>12 A. Because I don't remember.</p> <p>13 Q. Okay. If we look at paragraph 316</p> <p>14 of your complaint, ma'am, on page 47. And</p> <p>15 you'll see that there's paragraph 316 that</p> <p>16 begins "Defendants terminated the employment</p> <p>17 of plaintiffs," right?</p> <p>18 ATTORNEY BRUSTEIN: Objection. Are</p> <p>19 you asking 317 or 316?</p> <p>20 ATTORNEY BOLAND: 316.</p> <p>21 ATTORNEY BRUSTEIN: Sorry.</p> <p>22 ATTORNEY BOLAND: Yeah. The one</p> <p>23 that begins "Defendants terminated the</p> <p>24 employment of plaintiffs." I could have</p> <p>25 misspoke.</p>
<p>Page 336</p> <p>1 V. HOLMES</p> <p>2 Q. Right?</p> <p>3 A. I see that.</p> <p>4 Q. Okay. And plaintiffs includes you,</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So this allegation is about</p> <p>8 you, it may be others as well, but it's</p> <p>9 definitely about you, correct?</p> <p>10 A. That is correct.</p> <p>11 Q. Okay. It says: Defendants</p> <p>12 terminated the employment of plaintiffs,</p> <p>13 including you. And I just want to ask you</p> <p>14 about you. And it says as the class members</p> <p>15 as part of, or as the foreseeable result of,</p> <p>16 mass layoffs or plant closings ordered by</p> <p>17 defendants on or about March 20, 2020; on or</p> <p>18 about September 21, 2020; on or about March</p> <p>19 22, 2021; and then it says and/or June 25,</p> <p>20 2021 -- and then it goes on -- "by placing the</p> <p>21 class members on indefinite furlough without</p> <p>22 providing timely," and then it goes on, right?</p> <p>23 Was your employment terminated,</p> <p>24 ma'am?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 337</p> <p>1 V. HOLMES</p> <p>2 A. I can't answer that.</p> <p>3 Q. Why?</p> <p>4 A. I can't answer that.</p> <p>5 Q. But this allegation is about you.</p> <p>6 Is it true or is it false?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I am a plaintiff.</p> <p>9 Q. No, I want to know if the</p> <p>10 allegation about you is true. That your</p> <p>11 employment was terminated on one of these</p> <p>12 dates?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. I can't answer that.</p> <p>15 Q. But this allegation's about you,</p> <p>16 ma'am. Are you going to go and testify to the</p> <p>17 judge yes, my employment was terminated on</p> <p>18 March 20, 2020?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I can't answer that.</p> <p>21 Q. What date was your employment</p> <p>22 terminated?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I can't answer that.</p> <p>25 Q. So with respect to your claim for</p>

<p>Page 338</p> <p>1 V. HOLMES</p> <p>2 violation of the WARN Acts, you're not going</p> <p>3 to be able to tell the judge when your</p> <p>4 employment was terminated; true?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I can't answer that.</p> <p>7 Q. Let's go to paragraphs 22 and 23 of</p> <p>8 your complaint. And I think that these are on</p> <p>9 page 5. Okay. And you'll see in paragraph 22</p> <p>10 you allege Defendants also failed to provide</p> <p>11 plaintiffs -- and that includes you, right?</p> <p>12 Paragraph 22. The first sentence starts out</p> <p>13 with the clauses "Defendants also failed to</p> <p>14 provide plaintiffs."</p> <p>15 Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. "Plaintiffs" includes you, correct?</p> <p>18 A. I am a plaintiff.</p> <p>19 Q. All right. And you're one of the</p> <p>20 people that's identified here, right?</p> <p>21 A. I am a plaintiff.</p> <p>22 Q. Yes. So this allegation's about</p> <p>23 you? It's about others, but it's also about</p> <p>24 you, right?</p> <p>25 A. I am a plaintiff, yes.</p>	<p>Page 339</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 Q. It's about you, okay. And then it</p> <p>4 says, the 60 days notice and then it goes on.</p> <p>5 In 23 you allege: By reason of defendants'</p> <p>6 unlawful conduct plaintiffs and others</p> <p>7 similarly situated have suffered money damages</p> <p>8 and other resulting injury and loss, correct?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I can't answer that.</p> <p>11 Q. You don't know whether it says</p> <p>12 that?</p> <p>13 ATTORNEY BRUSTEIN: It doesn't.</p> <p>14 A. You read it.</p> <p>15 Q. I'm just asking you if it says</p> <p>16 that. I'm just getting you to what it says?</p> <p>17 ATTORNEY BRUSTEIN: Objection. It</p> <p>18 doesn't.</p> <p>19 Q. Okay. Why don't you read that to</p> <p>20 yourself, paragraph 23. Go ahead and read</p> <p>21 paragraph 23 to yourself.</p> <p>22 A. I read it.</p> <p>23 Q. Okay. Now you understand that</p> <p>24 plaintiffs in this allegation includes you,</p> <p>25 right?</p>
<p>Page 340</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection. And</p> <p>3 please stop pointing at the witness.</p> <p>4 Q. You may answer, ma'am.</p> <p>5 A. I am a plaintiff.</p> <p>6 Q. So this allegation is about you, is</p> <p>7 it not?</p> <p>8 A. I am a plaintiff.</p> <p>9 Q. My question is, is this allegation</p> <p>10 about you? Yes or no.</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. I am a plaintiff.</p> <p>13 Q. I understand you're a plaintiff.</p> <p>14 So you would say, admit that this allegation</p> <p>15 is about you, individually, as well as others,</p> <p>16 but it's about you?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I'm not going to answer that.</p> <p>19 Q. You are not going to answer that?</p> <p>20 A. I'm a plaintiff.</p> <p>21 Q. Okay. All right. I want to know,</p> <p>22 ma'am, what money damages did you suffer as a</p> <p>23 result of the violation of the WARN Act?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I can't answer that.</p>	<p>Page 341</p> <p>1 V. HOLMES</p> <p>2 Q. Why?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I can't answer that.</p> <p>5 ATTORNEY BRUSTEIN: Let's take a</p> <p>6 five-minute break.</p> <p>7 ATTORNEY BOLAND: No.</p> <p>8 ATTORNEY BRUSTEIN: What do you</p> <p>9 mean no?</p> <p>10 Q. What other resulting injury or loss</p> <p>11 did you suffer as a result of the violation of</p> <p>12 the WARN Act?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. I can't answer that.</p> <p>15 ATTORNEY BRUSTEIN: Do you want to</p> <p>16 take a five-minute break?</p> <p>17 THE WITNESS: Yes.</p> <p>18 ATTORNEY BOLAND: Go ahead.</p> <p>19 THE WITNESS: Thank you.</p> <p>20 ATTORNEY RISMAN: Let's just note</p> <p>21 for the record how long the deposition</p> <p>22 has been going so far?</p> <p>23 (Discussion off the record.)</p> <p>24 ATTORNEY RISMAN: So she's been</p> <p>25 testifying for five hours and 22</p>

<p>Page 342</p> <p>1 V. HOLMES</p> <p>2 minutes.</p> <p>3 ---</p> <p>4 (Recess from 5:29 to 5:31.)</p> <p>5 ---</p> <p>6 ATTORNEY BOLAND: Back on the</p> <p>7 record.</p> <p>8 THE COURT REPORTER: Back on.</p> <p>9 Q. Ma'am, going back to the complaint.</p> <p>10 We were looking at the allegations in</p> <p>11 paragraphs 22 and 23. Do you remember that</p> <p>12 generally, just a few minutes ago?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And I asked you about</p> <p>15 monetary damages that you had suffered as a</p> <p>16 result of the violation of the WARN Act and I</p> <p>17 also asked you about other resulting injury</p> <p>18 and loss that you had suffered. Do you</p> <p>19 remember those questions?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. What monetary damage has</p> <p>22 anybody else who is a non-union employee</p> <p>23 suffered as a result of anybody's violation of</p> <p>24 the WARN Act?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 343</p> <p>1 V. HOLMES</p> <p>2 A. I can't answer others but I can</p> <p>3 answer my own.</p> <p>4 Q. Okay. You said you couldn't answer</p> <p>5 before. Did something change that now you</p> <p>6 can?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. Nothing changed. I can answer the</p> <p>9 question.</p> <p>10 Q. Okay. What monetary damages did</p> <p>11 you suffer as a result of the violation of the</p> <p>12 WARN Act?</p> <p>13 A. Of the WARN Act? I wasn't paid for</p> <p>14 the 60 days that should occur every six months</p> <p>15 of me not working.</p> <p>16 Q. Any other monetary damages that you</p> <p>17 suffered as a result of the violation of the</p> <p>18 WARN Act?</p> <p>19 A. Yes, I haven't been paid wages that</p> <p>20 I have been customized to for 20-plus years.</p> <p>21 My 401(k) just stopped. I stopped</p> <p>22 contributing to my 401(k). I haven't had</p> <p>23 medical insurance or dental insurance. I have</p> <p>24 had extensive amount of work done to my teeth</p> <p>25 that I am not able to be insured properly to</p>
<p>Page 344</p> <p>1 V. HOLMES</p> <p>2 pay.</p> <p>3 Q. Okay. Anything else that you</p> <p>4 suffered as a result of the violation of the</p> <p>5 WARN Act?</p> <p>6 ATTORNEY BRUSTEIN: Objection.</p> <p>7 A. Just my lifestyle has changed.</p> <p>8 Q. Your lifestyle changed?</p> <p>9 A. My lifestyle has changed. That</p> <p>10 pretty much covers it.</p> <p>11 Q. Those are the monetary damages</p> <p>12 you've suffered as a result of the violation</p> <p>13 of the WARN Act?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. What about in the category</p> <p>16 of other resulting injury and loss; is there</p> <p>17 anything in addition to what you just told me</p> <p>18 that falls into that category other than</p> <p>19 monetary damages? In other words other</p> <p>20 resulting injury and loss that you suffered as</p> <p>21 a result of the WARN Act?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. Yeah, loss of wages. Loss of my</p> <p>24 lifestyle.</p> <p>25 Q. Okay. You want to be compensated</p>	<p>Page 345</p> <p>1 V. HOLMES</p> <p>2 for that in this lawsuit?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And with respect to anybody</p> <p>6 else, any other non-union employee, who you</p> <p>7 think had suffered from a violation of the</p> <p>8 WARN Act, can you tell me what monetary</p> <p>9 damages those other employees have suffered?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I am assuming similar to the ones</p> <p>12 that I have.</p> <p>13 Q. Do you know?</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 A. I'm not sure.</p> <p>16 Q. Okay. What about the other -- we</p> <p>17 would have to ask them, just as I'm asking you</p> <p>18 right now, right?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. You would have to ask them.</p> <p>21 Q. And what about in terms of other</p> <p>22 resulting injury and loss for other people</p> <p>23 that might be in the class, other non-union</p> <p>24 employees, can you tell me what all of them</p> <p>25 have suffered in that regard --</p>

<p>Page 346</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 Q. As a result of a violation of the</p> <p>4 WARN Act?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. They have also lost wages and been</p> <p>7 violated. I can't really answer that for</p> <p>8 them.</p> <p>9 Q. You can't answer that? We would</p> <p>10 have to ask them, right?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. Individually, what they suffered?</p> <p>13 Yes.</p> <p>14 Q. Okay.</p> <p>15 A. But as a group we've suffered the</p> <p>16 same things, which is the violation of the</p> <p>17 WARN Act and no-fault separation pay. As a</p> <p>18 group that's what we --</p> <p>19 Q. I understand you're talking about</p> <p>20 the violation and the no-fault separation pay.</p> <p>21 I'm talking about WARN Act right now. Okay?</p> <p>22 A. Yes.</p> <p>23 Q. You gave me the monetary damages</p> <p>24 and the other resulting injury and loss that</p> <p>25 you believe you've suffered and want to be</p>	<p>Page 347</p> <p>1 V. HOLMES</p> <p>2 compensated for, right?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. Correct.</p> <p>5 Q. Okay. And I was just saying with</p> <p>6 respect to the monetary damages and all of the</p> <p>7 resulting injury and loss that anybody else</p> <p>8 might have suffered from a violation of the</p> <p>9 WARN Act, we would have to go and ask them</p> <p>10 what those things are for them, right?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. They should be the same as myself.</p> <p>13 Q. But you don't know, do you?</p> <p>14 ATTORNEY BRUSTEIN: Objection.</p> <p>15 A. For sure, no.</p> <p>16 Q. Okay. We would have to ask them to</p> <p>17 be certain, wouldn't we?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 Q. We would have to ask them to be</p> <p>20 certain, wouldn't we?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 Q. You may answer.</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I can't answer that.</p> <p>25 Q. Why not?</p>
<p>Page 348</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I don't know what their personal</p> <p>4 losses have been.</p> <p>5 Q. Yeah. That's what I am just</p> <p>6 saying. You can't answer for them, we would</p> <p>7 have to go ask them what their personal losses</p> <p>8 have been, wouldn't we?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 Q. Right?</p> <p>11 ATTORNEY BRUSTEIN: There may be</p> <p>12 other ways. She's already told you she</p> <p>13 can't answer that. Objection.</p> <p>14 Q. You may answer, ma'am.</p> <p>15 A. I can't answer that.</p> <p>16 Q. I want to take your attention back</p> <p>17 to page 47 of your complaint, again, to</p> <p>18 paragraph 316. And I had asked you, you know,</p> <p>19 to identify what date you suffered termination</p> <p>20 of employment and you couldn't do that for</p> <p>21 yourself. Could you tell me for every other</p> <p>22 class member, every other non-union employee,</p> <p>23 what day or date they suffered a termination</p> <p>24 of employment?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 349</p> <p>1 V. HOLMES</p> <p>2 A. I cannot answer that.</p> <p>3 Q. We would have to go ask them?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I can't answer that.</p> <p>6 Q. The second category of thing that</p> <p>7 you complained about is the failure of them</p> <p>8 not being paid the no-fault separation pay,</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. If we take a look at page 51</p> <p>12 of your complaint, ma'am. You have there a</p> <p>13 third cause of action, breach of contract.</p> <p>14 Right?</p> <p>15 A. Yes. What number is that?</p> <p>16 Q. It's page 51 and it's in the</p> <p>17 middle, it says "as and for a third cause of</p> <p>18 action."</p> <p>19 And that's what I was referring to,</p> <p>20 breach of contract?</p> <p>21 A. Yes. I see that.</p> <p>22 Q. Okay. And that claim relates to</p> <p>23 the EmPact agreement and you not being paid</p> <p>24 no-fault separation pay, correct?</p> <p>25 A. That is correct.</p>

<p>Page 350</p> <p>1 V. HOLMES</p> <p>2 Q. Okay. And if we look at page 5 of</p> <p>3 your amended complaint, ma'am. We have</p> <p>4 paragraph 24. And you allege: Despite</p> <p>5 terminating the employment of the plaintiffs</p> <p>6 and others similarly situated in New York, and</p> <p>7 making their layoffs permanent, defendants</p> <p>8 have not paid them the no-fault separation pay</p> <p>9 owed to them as per their contracts. Right?</p> <p>10 A. That is correct.</p> <p>11 Q. I recognize there's other</p> <p>12 plaintiffs identified, but this allegation is</p> <p>13 also about you individually as a plaintiff,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. And the contracts that you are</p> <p>17 referring to, the contract for you, is the</p> <p>18 EmPact agreement, right?</p> <p>19 A. That is correct.</p> <p>20 Q. Okay. And that's an agreement that</p> <p>21 you signed an acknowledgment to, you signed</p> <p>22 off on, right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. I wanted to ask you a little</p> <p>25 bit about that, if I could.</p>	<p>Page 351</p> <p>1 V. HOLMES</p> <p>2 (Defendants' Exhibit 56, Staley v</p> <p>3 FSR 0032 was marked for identification).</p> <p>4 Q. I am handing you, ma'am, exhibit 56</p> <p>5 which for the record is a document</p> <p>6 Bates-stamped Staley v FSR 0032.</p> <p>7 Do you recognize exhibit 56?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And what is it?</p> <p>10 A. It's the cover letter to the</p> <p>11 EmPact.</p> <p>12 Q. The cover page?</p> <p>13 A. The cover page.</p> <p>14 Q. And is this the cover page to the</p> <p>15 EmPact agreement that you signed?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. I don't know. I can't see the rest</p> <p>18 of the document.</p> <p>19 Q. I understand that. And I was just</p> <p>20 wondering -- let me take a step back for a</p> <p>21 second. Is this page here one of the</p> <p>22 documents that you retrieved to be produced in</p> <p>23 the case?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. I don't remember.</p>
<p>Page 352</p> <p>1 V. HOLMES</p> <p>2 Q. Do you have a copy in your files</p> <p>3 somewhere of the EmPact agreement you that</p> <p>4 signed?</p> <p>5 ATTORNEY BRUSTEIN: Objection.</p> <p>6 A. I have a copy of the EmPact.</p> <p>7 Q. Okay. I want to be fair to you,</p> <p>8 ma'am, that you had signed a declaration, I</p> <p>9 think in connection with the version of the</p> <p>10 EmPact agreement that you signed. So let's go</p> <p>11 to --</p> <p>12 ATTORNEY BRUSTEIN: Are you done</p> <p>13 with 56?</p> <p>14 ATTORNEY BOLAND: No.</p> <p>15 Q. -- go to exhibit 57, ma'am.</p> <p>16 (Defendants' Exhibit 57,</p> <p>17 Declaration of Vivian Holmes dated</p> <p>18 December 5, 2022 was marked for</p> <p>19 identification).</p> <p>20 ATTORNEY BOLAND: Which for the</p> <p>21 record is a document titled Declaration</p> <p>22 of Vivian Holmes dated December 5, 2022.</p> <p>23 Q. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And that's your signature, right?</p>	<p>Page 353</p> <p>1 V. HOLMES</p> <p>2 A. Yes.</p> <p>3 Q. Okay. You talk about, in paragraph</p> <p>4 3, you say: I have reviewed the EmPact</p> <p>5 agreement annexed to the Declaration of Evan</p> <p>6 Brustein dated December 5, 2022, and that is</p> <p>7 the true and correct [sic] copy of the EmPact</p> <p>8 agreement last revised February 2018 that I</p> <p>9 acknowledged receiving in 2018.</p> <p>10 Correct?</p> <p>11 A. That is correct.</p> <p>12 ATTORNEY BRUSTEIN: Objection. It</p> <p>13 doesn't say that, but ...</p> <p>14 ATTORNEY BOLAND: Well, it says</p> <p>15 what it says. All right.</p> <p>16 Q. If you want to pull out, ma'am,</p> <p>17 document 43 from your pile. I think the</p> <p>18 exhibit number is 10. You'll see that this is</p> <p>19 a declaration of Evan Brustein. And the date</p> <p>20 on there you can see matches the date in your</p> <p>21 declaration dated, it's December 5, 2022.</p> <p>22 Right?</p> <p>23 A. Yes, I see it.</p> <p>24 Q. This is the declaration you were</p> <p>25 referring to in your -- your declaration that</p>

<p>Page 354</p> <p>1 V. HOLMES</p> <p>2 is exhibit 57, right?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. Answer the question -- I mean ask</p> <p>5 the question again?</p> <p>6 Q. Sure. In paragraph 3 you talk</p> <p>7 about reviewing an EmPact agreement annexed to</p> <p>8 the Declaration of Evan Brustein. Right?</p> <p>9 A. Yes.</p> <p>10 Q. And that declaration was dated</p> <p>11 December 5, 2022, according to your</p> <p>12 declaration, right?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And exhibit 10 is the</p> <p>16 Declaration of Evan Brustein dated December 5,</p> <p>17 2022 that you were referring to in paragraph 3</p> <p>18 of your declaration, that is exhibit 57,</p> <p>19 right?</p> <p>20 A. I'm not understanding.</p> <p>21 Q. Is exhibit 10 --</p> <p>22 A. Yes, exhibit 10.</p> <p>23 Q. -- the Declaration of Evan Brustein</p> <p>24 dated December 5, 2022 that you were referring</p> <p>25 to in paragraph 3 of your declaration that is</p>	<p>Page 355</p> <p>1 V. HOLMES</p> <p>2 exhibit 57?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. Are you asking me if this is the</p> <p>5 declaration of the EmPact? Or what ...</p> <p>6 Q. What I'm wondering is if exhibit 10</p> <p>7 is the declaration of Evan Brustein that you</p> <p>8 are referring to in exhibit 3 of your</p> <p>9 declaration that we have marked as exhibit 57?</p> <p>10 A. I'm sorry. I don't understand.</p> <p>11 Q. Sure. In paragraph 3 you refer to,</p> <p>12 of your declaration that is exhibit 57, you</p> <p>13 refer to reviewing an EmPact agreement annexed</p> <p>14 to the declaration of Evan Brustein, dated</p> <p>15 December 5, 2022. Right?</p> <p>16 A. Correct.</p> <p>17 Q. Is that exhibit 10 that you are</p> <p>18 referring to?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And if you'll look at the</p> <p>21 very first document on exhibit 10 after that,</p> <p>22 there is a document that begins EmPact</p> <p>23 employee handbook, right?</p> <p>24 A. Yes.</p> <p>25 Q. And in paragraph 4 of your</p>
<p>Page 356</p> <p>1 V. HOLMES</p> <p>2 declaration, ma'am, you say: The EmPact</p> <p>3 agreement I signed in 2018 had a welcome</p> <p>4 letter on page 6 signed by -- I won't get that</p> <p>5 name right --</p> <p>6 A. Mehdi Eftekari.</p> <p>7 Q. Thank you.</p> <p>8 -- the Four Seasons Hotel New York</p> <p>9 general manager in February 2018, not his</p> <p>10 successor, Randy [sic] Tauscher, right?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 Q. That's what you were talking about</p> <p>13 in paragraph 4, of what the EmPact agreement</p> <p>14 you signed had in it?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I don't remember but it sounds</p> <p>17 about right, that Mehdi Eftekari was the</p> <p>18 general manager in 2018.</p> <p>19 Q. And did you remember that he was</p> <p>20 identified on page 6 of the EmPact agreement</p> <p>21 you signed in 2018 when you executed your</p> <p>22 affidavit?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I don't remember.</p> <p>25 Q. Okay. And I'm just trying to</p>	<p>Page 357</p> <p>1 V. HOLMES</p> <p>2 understand, how do you know that the one you</p> <p>3 signed in 2018 had a welcome letter on page 6</p> <p>4 signed by the gentleman that you identify in</p> <p>5 paragraph 4 of your declaration?</p> <p>6 A. Well, I am seeing it now. He's</p> <p>7 there.</p> <p>8 Q. I understand he's there. But I</p> <p>9 want to know how you remembered at the time</p> <p>10 period that you signed your declaration in</p> <p>11 December of 2022, that he was on that page of</p> <p>12 the EmPact agreement you signed?</p> <p>13 A. I don't remember.</p> <p>14 Q. Okay. And the reason I'm asking</p> <p>15 you is very simple, ma'am. Did you have a</p> <p>16 copy of the EmPact agreement that you are</p> <p>17 referencing, the 2018 one that you are</p> <p>18 describing in paragraph 3 and 4 of your</p> <p>19 declaration, do you have a copy of that?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I don't remember. I do have a copy</p> <p>22 of it. I don't -- I can't tell you right now</p> <p>23 what year it is. But I do have a copy of it.</p> <p>24 Q. Did you mark that as one of the</p> <p>25 documents that you should produce in this</p>

<p>Page 358</p> <p>1 V. HOLMES</p> <p>2 case?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 A. I don't remember.</p> <p>5 Q. Is this, is exhibit 56 a copy of</p> <p>6 the front page of the EmPact agreement you</p> <p>7 have in your file?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I don't remember.</p> <p>10 Q. In any event, the EmPact agreement</p> <p>11 that you say that you signed is the one that</p> <p>12 is attached and we see as the first exhibit to</p> <p>13 Mr. Brustein's declaration, right?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. I have marked that</p> <p>16 separately so that we don't have to worry</p> <p>17 about all of the other stuff in that.</p> <p>18 ATTORNEY BRUSTEIN: Are we done</p> <p>19 with 10?</p> <p>20 ATTORNEY BOLAND: I don't know. 10</p> <p>21 we're done with, yes.</p> <p>22 (Defendants' Exhibit 58, EmPact</p> <p>23 agreement was marked for</p> <p>24 identification).</p> <p>25 Q. I have handed you, Ms. Holmes, what</p>	<p>Page 359</p> <p>1 V. HOLMES</p> <p>2 has been marked as exhibit 58, which for the</p> <p>3 record is -- well, it's a document that has no</p> <p>4 Bates number. Because I will represent to</p> <p>5 you, ma'am, if you look at the stamp at the</p> <p>6 top it is the same as the first exhibit to</p> <p>7 Mr. Brustein's declaration that was marked as</p> <p>8 exhibit 10. I just thought it would be easier</p> <p>9 for us to use the document on its own.</p> <p>10 What we have as exhibit 58 is a</p> <p>11 copy of the EmPact agreement that you actually</p> <p>12 signed in 2018, right?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 (The witness reviews document.)</p> <p>15 Q. Is this a copy of the EmPact</p> <p>16 agreement that you signed in 2018?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't know if this is the copy.</p> <p>19 Q. Well, ma'am, you signed a</p> <p>20 verification, did you not --</p> <p>21 A. Yes.</p> <p>22 Q. -- on exhibit 57 saying that the</p> <p>23 document that was attached to Mr. Brustein's</p> <p>24 declaration was the true and accurate copy of</p> <p>25 the EmPact agreement last revised February</p>
<p>Page 360</p> <p>1 V. HOLMES</p> <p>2 2018 that I acknowledged receiving in 2018?</p> <p>3 A. That is correct.</p> <p>4 Q. I am going to tell you I just took</p> <p>5 that document out and marked it as exhibit 58.</p> <p>6 ATTORNEY BRUSTEIN: Objection. She</p> <p>7 has to believe you.</p> <p>8 ATTORNEY BOLAND: You can see it on</p> <p>9 the page at the top.</p> <p>10 ATTORNEY BRUSTEIN: But what's the</p> <p>11 point in copying it and saying it's in</p> <p>12 both exhibits?</p> <p>13 ATTORNEY BOLAND: It's easier to</p> <p>14 use. This one's not in color. It's</p> <p>15 easier to use. I just marked it as the</p> <p>16 same.</p> <p>17 Q. I just want to know, is this a copy</p> <p>18 of the EmPact agreement that you acknowledged</p> <p>19 receiving in 2018 or not?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. You know that. I didn't make the</p> <p>22 copies. I was going by one and now you're</p> <p>23 giving me another one and saying it's the</p> <p>24 same.</p> <p>25 Q. Okay.</p>	<p>Page 361</p> <p>1 V. HOLMES</p> <p>2 A. It is to me.</p> <p>3 Q. Let's go off of Mr. Brustein's</p> <p>4 declaration that's exhibit 10. The one that</p> <p>5 you signed under oath and penalty of perjury</p> <p>6 was the copy that you acknowledged in 2018.</p> <p>7 So is it your contention, ma'am,</p> <p>8 that under the EmPact agreement you were</p> <p>9 entitled to be paid no-fault separation pay?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And if we look at page 56 of</p> <p>12 the EmPact agreement. And you'll see there's</p> <p>13 a place at the bottom no-fault separation pay,</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. And that's what you want for</p> <p>17 your breach of contract claim, correct?</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And you see that, ma'am,</p> <p>21 that the section on no-fault separation pay</p> <p>22 continues for about a page and a little bit</p> <p>23 more after that, to page 58?</p> <p>24 A. I see that.</p> <p>25 Q. Have you read the terms under</p>

<p>Page 362</p> <p>1 V. HOLMES</p> <p>2 no-fault separation pay that begin on page 56</p> <p>3 and continue to the top of 58?</p> <p>4 A. I have no.</p> <p>5 Q. Okay. And you agree that those are</p> <p>6 the terms that apply to your breach of</p> <p>7 contract claim for failing to pay no-fault</p> <p>8 separation pay, right?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Let's take a look at page 54</p> <p>12 of the EmPact agreement, if you could. Strike</p> <p>13 that for one quick sec.</p> <p>14 No-fault separation pay on page 56,</p> <p>15 ma'am, it says: If I receive a permanent</p> <p>16 layoff with no right of recall or I am</p> <p>17 terminated for no-fault, my termination will</p> <p>18 be considered no-fault. Right?</p> <p>19 A. I see that.</p> <p>20 Q. What happened to you?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. I haven't been working for three</p> <p>23 years, and as far as I'm concerned it seems</p> <p>24 like a permanent layoff.</p> <p>25 Q. A permanent layoff with no right to</p>	<p>Page 363</p> <p>1 V. HOLMES</p> <p>2 be recalled?</p> <p>3 A. I have not been recalled.</p> <p>4 Q. I understand that. Do you believe</p> <p>5 that you have been given a permanent layoff</p> <p>6 and you have no right at all to be recalled?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 A. I believe that I have been</p> <p>9 permanently laid off.</p> <p>10 Q. Okay. Do you believe that you have</p> <p>11 no right to be recalled?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I can't answer that.</p> <p>14 Q. I asked you what you believe?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I can't answer that.</p> <p>17 Q. Okay. Do you believe you have a</p> <p>18 right to be recalled if the hotel reopens?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I believe I should be called.</p> <p>21 Q. Are you willing to give that up in</p> <p>22 order to receive no-fault separation pay in</p> <p>23 this lawsuit?</p> <p>24 ATTORNEY BRUSTEIN: Objection.</p> <p>25 A. Can you ask that again?</p>
<p>Page 364</p> <p>1 V. HOLMES</p> <p>2 Q. Yeah, sure. Are you willing to</p> <p>3 give up any option of being called back,</p> <p>4 recalled back, if the hotel reopens, you know,</p> <p>5 in weeks, months, whatever, in exchange for</p> <p>6 getting no-fault separation pay in this</p> <p>7 lawsuit?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I can't answer that because I</p> <p>10 haven't been called back.</p> <p>11 Q. Yeah, I know. Let's assume the</p> <p>12 hotel's going to open sometime in the future,</p> <p>13 maybe three months, four months, five months,</p> <p>14 whatever.</p> <p>15 A. I can't answer that. Because the</p> <p>16 lawsuit is now. And you're talking about four</p> <p>17 months later. I don't know what's going to</p> <p>18 happen from now to four months.</p> <p>19 Q. Okay. You want a court to find, do</p> <p>20 you not, ma'am, that because of your</p> <p>21 circumstances you have suffered a permanent</p> <p>22 layoff with no right of recall, right?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I have been permanently laid off.</p> <p>25 Q. Okay. You understand that there's</p>	<p>Page 365</p> <p>1 V. HOLMES</p> <p>2 a dispute about that, that the hotel</p> <p>3 disagrees, correct?</p> <p>4 A. I don't know what the hotel</p> <p>5 disagrees or agrees on.</p> <p>6 Q. Has the hotel told you that you've</p> <p>7 been permanently laid off, ma'am?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 Q. Anybody?</p> <p>10 A. I haven't been working.</p> <p>11 Q. I didn't ask you that question. I</p> <p>12 asked you whether anybody has told you you've</p> <p>13 been permanently laid off?</p> <p>14 A. I can't answer that.</p> <p>15 Q. You can't answer whether anybody</p> <p>16 told you that?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I haven't been working for three</p> <p>19 years.</p> <p>20 Q. I understand that. I get that. I</p> <p>21 understand your circumstance, ma'am. I really</p> <p>22 do. What I want to know is has anyone told</p> <p>23 you, you have been permanently laid off?</p> <p>24 A. Well, if you wasn't working for</p> <p>25 three years what would you call?</p>

<p>Page 366</p> <p>1 V. HOLMES</p> <p>2 Q. I am not asking you what your</p> <p>3 interp --</p> <p>4 A. That's what I am asking you. What</p> <p>5 would you call it?</p> <p>6 Q. It doesn't work that way,</p> <p>7 unfortunately. I know if I was in your</p> <p>8 position I would want it to. But it does not.</p> <p>9 The question is, ma'am, has anyone at the</p> <p>10 hotel told you that you are permanently laid</p> <p>11 off?</p> <p>12 ATTORNEY BRUSTEIN: Objection.</p> <p>13 A. I can't answer that.</p> <p>14 Q. Why?</p> <p>15 A. Because I don't know how to answer</p> <p>16 that.</p> <p>17 Q. I want to know if anybody used</p> <p>18 those words to you, they said, Ms. Holmes, you</p> <p>19 have been permanently laid off?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I can't answer that.</p> <p>22 Q. Why? It never happened, did it?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I am saying that I'm permanently</p> <p>25 laid off.</p>	<p>Page 367</p> <p>1 V. HOLMES</p> <p>2 Q. I understand you're saying that.</p> <p>3 Do you understand that the hotel and the</p> <p>4 defendants may disagree with the state of</p> <p>5 affairs, that you are not permanently laid</p> <p>6 off? You understand there could be a</p> <p>7 disagreement, right?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. I don't know what they know.</p> <p>10 Q. Do you understand that the judge,</p> <p>11 for you to recover under your breach of</p> <p>12 contract claim, is going to have to find that</p> <p>13 you were permanently laid off with no right of</p> <p>14 recall?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. I don't know how to answer that.</p> <p>17 Q. In pursuing your breach of contract</p> <p>18 claim, ma'am, have you considered that the</p> <p>19 results of you prevailing on it may mean that</p> <p>20 the judge finds that you have been permanently</p> <p>21 laid off with no right of recall?</p> <p>22 A. You're asking me if I feel that the</p> <p>23 judge would think that I've been permanently</p> <p>24 laid off?</p> <p>25 Q. No. I am asking you if you have</p>
<p>Page 368</p> <p>1 V. HOLMES</p> <p>2 considered whether in order to find out, to</p> <p>3 find in your favor, the judge or the jury</p> <p>4 would have to reach a finding, a conclusion</p> <p>5 that you have been permanently laid off with</p> <p>6 no right of recall?</p> <p>7 ATTORNEY BRUSTEIN: Objection.</p> <p>8 There's more to that sentence.</p> <p>9 Q. You may answer despite the</p> <p>10 coaching.</p> <p>11 ATTORNEY BRUSTEIN: I'm just trying</p> <p>12 to make sure the question's accurate.</p> <p>13 ATTORNEY BOLAND: No, you're</p> <p>14 coaching.</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 Q. You can answer.</p> <p>17 A. I do understand that the jury and</p> <p>18 the judge has to find findings to back up what</p> <p>19 I'm saying.</p> <p>20 Q. Okay. What I want to know is if</p> <p>21 you have considered whether to prevail on your</p> <p>22 claim for no-fault separation pay, the judge</p> <p>23 or the jury may have to find that you have</p> <p>24 been permanently laid off with no right of</p> <p>25 recall?</p>	<p>Page 369</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I don't understand.</p> <p>4 Q. Do you know whether anybody -- are</p> <p>5 you willing, in pursuing your breach of</p> <p>6 contract claim, to give up any right that you</p> <p>7 may have to be recalled if the hotel reopens</p> <p>8 to prevail in your breach of contract claim?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. The hotel is not opening right now.</p> <p>11 I haven't gotten any notice that they're</p> <p>12 opening.</p> <p>13 Q. I understand that. You understand</p> <p>14 it's possible that they may open in the future</p> <p>15 or they may not, right?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 A. Those are the only two options.</p> <p>18 Q. Exactly. Right? So they're both</p> <p>19 option -- they're both viable options? It</p> <p>20 could open or it might not, right?</p> <p>21 ATTORNEY BRUSTEIN: Objection.</p> <p>22 A. Those are the two options, yes.</p> <p>23 Q. And if it does, I think you</p> <p>24 testified earlier, you would like to be</p> <p>25 recalled back or to have the option to join</p>

<p>Page 370</p> <p>1 V. HOLMES</p> <p>2 the hotel again if it reopens, right?</p> <p>3 A. I would love to work.</p> <p>4 Q. Okay. Are you willing to give that</p> <p>5 up in order to prevail on a breach of contract</p> <p>6 claim in this lawsuit for no-fault separation</p> <p>7 pay?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 A. Am I willing to give up the</p> <p>10 lawsuits in order to go back to work? Is that</p> <p>11 what you're saying? I don't understand.</p> <p>12 Q. No. I am asking you if you're</p> <p>13 willing to give up the ability to be recalled</p> <p>14 in the future if the hotel reopens in order to</p> <p>15 recover now on your breach of contract claim</p> <p>16 for no-fault separation pay?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I'm sorry. But I don't understand.</p> <p>19 Q. So you understand that the words</p> <p>20 here say, if I receive a permanent layoff with</p> <p>21 no right of recall, or I am terminated for</p> <p>22 no-fault. That's the phrases, right?</p> <p>23 A. Yes. That's what it says.</p> <p>24 Q. Okay. Has anyone given you any</p> <p>25 kind of notice of termination of your</p>	<p>Page 371</p> <p>1 V. HOLMES</p> <p>2 employment?</p> <p>3 ATTORNEY BRUSTEIN: Objection.</p> <p>4 Q. You can answer.</p> <p>5 A. A written notice stating that I'm</p> <p>6 not working for the hotel?</p> <p>7 Q. Yes. That -- no, that your</p> <p>8 employment is terminated. Not you're on</p> <p>9 furlough. Not you're on a layoff. You're</p> <p>10 terminated?</p> <p>11 A. I haven't worked for three years.</p> <p>12 Q. I didn't ask you that, ma'am. I</p> <p>13 asked you if you have been given a notice that</p> <p>14 you've been terminated?</p> <p>15 A. But I consider that I'm permanently</p> <p>16 laid off.</p> <p>17 Q. So you consider yourself to be</p> <p>18 permanently laid off, right?</p> <p>19 A. I haven't been working and I</p> <p>20 haven't received any wages from the hotel.</p> <p>21 Q. I am just trying to understand,</p> <p>22 ma'am, your claim. You're the plaintiff in</p> <p>23 this lawsuit. Do you believe -- is it your</p> <p>24 contention that you have been permanently laid</p> <p>25 off or is it your contention that your</p>
<p>Page 372</p> <p>1 V. HOLMES</p> <p>2 employment has actually been terminated,</p> <p>3 officially ended?</p> <p>4 ATTORNEY BRUSTEIN: Objection.</p> <p>5 A. I understand that I have been</p> <p>6 permanently laid off.</p> <p>7 Q. Okay. Do you understand that you</p> <p>8 have been permanently laid off with no right</p> <p>9 of being recalled ever?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. I don't know that.</p> <p>12 Q. What's your understanding?</p> <p>13 A. Of?</p> <p>14 Q. Whether or not you have been</p> <p>15 permanently laid off with no right of recall,</p> <p>16 as you sit here today?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I don't know.</p> <p>19 Q. You don't know. All right. If</p> <p>20 giving up a right of recall is required for</p> <p>21 purposes of prevailing on your breach of</p> <p>22 contract claim as a result of a permanent</p> <p>23 layoff are you willing to give up that right</p> <p>24 to recover on your breach of contract claim?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 373</p> <p>1 V. HOLMES</p> <p>2 A. I don't understand.</p> <p>3 Q. Yeah. If the choice is, ma'am,</p> <p>4 prevail on the breach of contract claim for a</p> <p>5 permanent layoff or not prevail on the breach</p> <p>6 of contract claim but have a right to be</p> <p>7 recalled back if the hotel reopens, which do</p> <p>8 you choose?</p> <p>9 ATTORNEY BRUSTEIN: Objection.</p> <p>10 A. I don't know that the hotel is</p> <p>11 going to open.</p> <p>12 Q. I understand that.</p> <p>13 A. So I can't make that decision.</p> <p>14 Q. I am talking about the ability to</p> <p>15 be recalled in the future if it reopens. Are</p> <p>16 you willing to give that up?</p> <p>17 ATTORNEY BRUSTEIN: Objection.</p> <p>18 A. I would like to work for the hotel.</p> <p>19 Q. I didn't ask you that. Are you</p> <p>20 willing to give that up in order to prevail in</p> <p>21 your breach of contract claim for no-fault</p> <p>22 separation pay?</p> <p>23 ATTORNEY BRUSTEIN: Objection.</p> <p>24 A. I don't know how to answer that.</p> <p>25 Q. Why?</p>

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2 A. Because I would love to go back to

3 work.

4 Q. Okay. Do you know whether any

5 other --

6 A. I love the company. I believed in

7 the company. I thought that, you know, it was

8 a righteous company. That's what I've always

9 believed.

10 Q. Do you know --

11 A. And now I'm here.

12 Q. Do you know whether -- are you

13 okay, ma'am?

14 A. It's just very upsetting.

15 Q. I understand that.

16 ATTORNEY BRUSTEIN: Can we take a

17 five-minute break, please?

18 ATTORNEY BOLAND: Sure.

19 --

20 (Recess from 6:05 to 6:10.)

21 --

22 BY ATTORNEY BOLAND:

23 Q. Ma'am, we were talking about the

24 EmPact agreement before we broke, and I was

25 asking you about, you know, if given a choice

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2 Q. Okay. And there are certain steps

3 here to be taken, right?

4 A. Yes.

5 Q. Okay. One is I will discuss the

6 matter informally with my immediate

7 supervisor.

8 When did you raise with your

9 immediate supervisor any failure to pay

10 no-fault separation pay under the EmPact

11 agreement?

12 ATTORNEY BRUSTEIN: Objection.

13 A. I don't remember when.

14 Q. Did you do it?

15 A. Yes, informally I spoke -- I did.

16 Q. Who did you speak to?

17 A. I spoke to Elizabeth Ortiz.

18 Q. Was she your immediate supervisor?

19 A. At the time, yes.

20 Q. And when was that conversation,

21 ma'am?

22 A. I don't remember when.

23 Q. Okay. In step 2 it says if step 1

24 does not solve the problem I will file a

25 written complaint with the human resources

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2 between receiving no-fault separation pay

3 based on a breach of contract claim theory or

4 having the ability to be called back, you

5 know, which you would pick and we've gone

6 through it, and I'm not doing it again.

7 Do you know for anyone else who you

8 believe was permanently laid off with no right

9 of recall, whether they would make the -- what

10 choice they would make, whether they would

11 want to have the ability to be recalled in the

12 future or whether they would want to collect,

13 you know, EmPact, no-fault separation pay as a

14 result of this lawsuit?

15 ATTORNEY BRUSTEIN: Objection.

16 A. I don't know.

17 Q. Okay. I want to direct your

18 attention, ma'am, to page 54 of the EmPact

19 agreement. It's right in front of you.

20 A. 54 you said?

21 Q. Yes. And you'll see there's a

22 section here called Complaint, arbitration and

23 review from employees and then underneath it's

24 got the acronym C.A.R.E., right?

25 A. Mm-hmm.

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2 offices within 14 days, et cetera.

3 Did you do that?

4 A. I sent an email.

5 Q. To whom?

6 A. Elizabeth Ortiz.

7 Q. Okay. When?

8 A. I don't remember.

9 Q. Was it within 14 days after the

10 event or the problem occurred?

11 ATTORNEY BRUSTEIN: Objection.

12 A. I don't remember.

13 Q. It says the director of human

14 resources will conduct an investigation

15 concerning my written complaint including

16 meeting with me within seven days after

17 filing.

18 Did that happen?

19 A. Somewhat. Not within that time

20 frame, but somewhat.

21 Q. Tell me what happened?

22 A. She replied that she was trying to

23 do the best she could and she was going to ask

24 the question to ownership and to the Four

25 Seasons if I could get a no-fault separation

<p>Page 378</p> <p>1 V. HOLMES</p> <p>2 pay.</p> <p>3 Q. Okay. And it says the director of</p> <p>4 human resources will issue a written decision</p> <p>5 to me within seven days after the close of the</p> <p>6 investigation.</p> <p>7 Did that happen?</p> <p>8 A. In writing? No.</p> <p>9 Q. Did it happen not being in writing?</p> <p>10 ATTORNEY BRUSTEIN: Objection.</p> <p>11 A. Yes. She spoke to me.</p> <p>12 Q. What did she tell you?</p> <p>13 A. She told me that ownership was not</p> <p>14 giving out any severance pay to non-union</p> <p>15 employees and that she was talking to the Four</p> <p>16 Seasons to see what she could do but that they</p> <p>17 weren't -- that they wouldn't do that at that</p> <p>18 time.</p> <p>19 Q. So you used the term severance pay</p> <p>20 in that --</p> <p>21 A. No-fault separation pay.</p> <p>22 Q. So they were giving no-fault</p> <p>23 separation pay to union employees, she told</p> <p>24 you that?</p> <p>25 ATTORNEY BRUSTEIN: Objection.</p>	<p>Page 379</p> <p>1 V. HOLMES</p> <p>2 A. That's not what I said.</p> <p>3 Q. I am trying to figure out what she</p> <p>4 reported back to you about non-union employees</p> <p>5 and no-fault separation pay?</p> <p>6 A. I never said non-union employees.</p> <p>7 Q. Okay. All right. Tell me again</p> <p>8 what --</p> <p>9 A. To me, I asked for my -- for my</p> <p>10 severance pay.</p> <p>11 Q. Okay.</p> <p>12 A. For my no-fault severance pay. She</p> <p>13 said that the Four Seasons or ownership was</p> <p>14 not offering that.</p> <p>15 Q. Did she tell you why?</p> <p>16 A. No.</p> <p>17 Q. Okay. And it says, if I am</p> <p>18 dissatisfied with the written decision in step</p> <p>19 4 I will appeal to the general manager within</p> <p>20 14 days after step 4.</p> <p>21 Did you do that?</p> <p>22 A. There is no general manager for me</p> <p>23 to report to.</p> <p>24 Q. There's no general manager of the</p> <p>25 hotel?</p>
<p>Page 380</p> <p>1 V. HOLMES</p> <p>2 A. No, there isn't.</p> <p>3 Q. Okay. All right. The next step is</p> <p>4 step 6. And it's got a list of four things in</p> <p>5 A, B, C and D, right? A is employment</p> <p>6 discrimination. B is harassment. C is a wage</p> <p>7 and hour violation. And D is termination of</p> <p>8 my employment from the hotel, including</p> <p>9 constructive discharge but not a permanent</p> <p>10 layoff, right?</p> <p>11 A. I see that.</p> <p>12 Q. Okay. And a permanent layoff is</p> <p>13 what you are contending happened to you, is</p> <p>14 that true?</p> <p>15 A. Yes. I have been permanently laid</p> <p>16 off.</p> <p>17 Q. Okay. And just to be fair, do you</p> <p>18 believe you have been permanently laid off</p> <p>19 with no right to be recalled?</p> <p>20 ATTORNEY BRUSTEIN: Objection.</p> <p>21 A. I can't answer that. The hotel --</p> <p>22 when are they going to recall me back? When</p> <p>23 I'm a hundred years old? When are they going</p> <p>24 to call me back? How can I give up</p> <p>25 something --</p>	<p>Page 381</p> <p>1 V. HOLMES</p> <p>2 Q. Ma'am, I am asking if that's your</p> <p>3 contention, that you have been permanently</p> <p>4 laid off and --</p> <p>5 A. I have been permanently laid off.</p> <p>6 Q. I just want to know --</p> <p>7 A. I have been permanently laid off.</p> <p>8 Q. Okay.</p> <p>9 A. If you're doing what you do now for</p> <p>10 three years, what would you call it? You</p> <p>11 wouldn't be able to survive three years</p> <p>12 without working.</p> <p>13 Q. It doesn't work this way. I would</p> <p>14 love to be able to have a discussion with you,</p> <p>15 but not in this context. And not while you're</p> <p>16 being represented by others.</p> <p>17 Okay. In your amended complaint</p> <p>18 that is exhibit 6 --</p> <p>19 ATTORNEY BRUSTEIN: Do you want to</p> <p>20 leave the EmPact open?</p> <p>21 ATTORNEY BOLAND: I don't think so.</p> <p>22 Unless she wants to refer to it. But if</p> <p>23 she wants to refer to it she can keep it</p> <p>24 out. But it doesn't have to be left</p> <p>25 open.</p>

<p>Page 382</p> <p>1 V. HOLMES</p> <p>2 Q. Exhibit 6 is the first amended</p> <p>3 complaint. The thing we've been looking at.</p> <p>4 I think you've got it open. And to get you</p> <p>5 back oriented again, ma'am, I want to take you</p> <p>6 to page 51. And this is your breach -- we</p> <p>7 were here before. This is your breach of</p> <p>8 contract claim, right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. I want to direct your</p> <p>11 attention to paragraph 347.</p> <p>12 A. Number 347?</p> <p>13 Q. Paragraph 347.</p> <p>14 A. On 52?</p> <p>15 Q. It's on 52, correct.</p> <p>16 A. Okay.</p> <p>17 Q. You have an allegation there that</p> <p>18 says plaintiffs -- that includes you, right?</p> <p>19 -- and each of the class members of the</p> <p>20 proposed subclass have materially performed</p> <p>21 their contractual obligations, right? That's</p> <p>22 the allegation that you made?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And you understood that the</p> <p>25 contractual obligations would be obligations</p>	<p>Page 383</p> <p>1 V. HOLMES</p> <p>2 that you and others had under the EmPact</p> <p>3 agreement?</p> <p>4 A. That is correct.</p> <p>5 Q. Okay. So you do recognize that the</p> <p>6 EmPact agreement put obligations on you, and</p> <p>7 the others who acknowledged it as well,</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. And you know that you have</p> <p>11 materially performed -- can you give me an</p> <p>12 example of what you understand some of those</p> <p>13 obligations to be, if you remember, as you sit</p> <p>14 here today?</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 A. What are you asking me?</p> <p>17 Q. Yeah. I was just asking, you</p> <p>18 understood that the EmPact agreement placed</p> <p>19 obligations on you as an employee just as it</p> <p>20 placed obligations on your employer, right?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. Can you give me an idea of</p> <p>23 maybe an example of one or two of the</p> <p>24 obligations that you understand that you had</p> <p>25 under the EmPact agreement?</p>
<p>Page 384</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: Objection.</p> <p>3 A. I don't know how to answer that.</p> <p>4 Q. Well, one of the obligations that</p> <p>5 you think that the employer had under the</p> <p>6 EmPact agreement was to pay you no-fault</p> <p>7 separation pay in the particular context that</p> <p>8 you're in where you believe you've been</p> <p>9 permanently laid off, right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. I want to find on the other</p> <p>12 side. As you sit here today can you identify</p> <p>13 or think of any of the obligations that you</p> <p>14 had under the EmPact agreement?</p> <p>15 A. Can you repeat that, please?</p> <p>16 Q. Yes. As you sit here today can you</p> <p>17 think of any of the obligations that you had,</p> <p>18 as an employee, under the EmPact agreement?</p> <p>19 ATTORNEY BRUSTEIN: Objection.</p> <p>20 A. I met all of my obligations. The</p> <p>21 hotel has not met their obligations.</p> <p>22 Q. I understand that, ma'am. I'm just</p> <p>23 trying --</p> <p>24 A. If you understand it, why are you</p> <p>25 asking me this over and over again in</p>	<p>Page 385</p> <p>1 V. HOLMES</p> <p>2 different forms.</p> <p>3 Q. Because you --</p> <p>4 A. I am permanently laid off.</p> <p>5 Q. Okay. You want to represent a</p> <p>6 class of a whole bunch of people that aren't</p> <p>7 going to be in court, right?</p> <p>8 ATTORNEY BRUSTEIN: Objection.</p> <p>9 Q. Right?</p> <p>10 A. I am the class representative, yes.</p> <p>11 Q. If a class is certified. And a</p> <p>12 class hasn't been certified yet, right?</p> <p>13 A. If a class is certified, yes.</p> <p>14 Q. You made an allegation in paragraph</p> <p>15 347 that you had satisfied all of your</p> <p>16 obligations under the EmPact agreement, right?</p> <p>17 A. I have met my obligations.</p> <p>18 Q. Okay. How do you know whether</p> <p>19 anyone else who might be in any class or</p> <p>20 subclass has satisfied their obligations under</p> <p>21 the EmPact agreement?</p> <p>22 ATTORNEY BRUSTEIN: Objection.</p> <p>23 A. They're in the same position as I</p> <p>24 am.</p> <p>25 Q. Yeah, but how do you know what they</p>

<p>Page 386</p> <p>1 V. HOLMES</p> <p>2 have done over the last number of years to see</p> <p>3 whether they have violated --</p> <p>4 A. They have done nothing. They</p> <p>5 haven't been working.</p> <p>6 Q. Ma'am, let me finish the question</p> <p>7 please. How do you know whether over the last</p> <p>8 several years they have satisfied their</p> <p>9 obligations or not satisfied their obligations</p> <p>10 under the EmPact agreement?</p> <p>11 ATTORNEY BRUSTEIN: Objection.</p> <p>12 A. I'm not sure. I can't answer that.</p> <p>13 Q. You don't know. We have to ask</p> <p>14 them and find out what their particular</p> <p>15 circumstances are, wouldn't we?</p> <p>16 ATTORNEY BRUSTEIN: Objection.</p> <p>17 Q. You can answer.</p> <p>18 ATTORNEY BRUSTEIN: Objection.</p> <p>19 A. We may have to ask them.</p> <p>20 Q. Okay. And I want to direct your</p> <p>21 attention if I could, ma'am, to paragraph 353.</p> <p>22 And this is an allegation where you say:</p> <p>23 Based upon the foregoing facts plaintiffs and</p> <p>24 each of the members of the proposed subclass</p> <p>25 have sustained damages including but not</p>	<p>Page 387</p> <p>1 V. HOLMES</p> <p>2 limited to their no-fault separation pay and</p> <p>3 the natural and probable consequences of the</p> <p>4 breach. Right? That's an allegation that you</p> <p>5 made about yourself and about others?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. I understand you want to get</p> <p>8 paid no-fault separation pay. I get that.</p> <p>9 Okay? What damages other than no-fault</p> <p>10 separation pay have you suffered as a result</p> <p>11 of the breach of the EmPact agreement that you</p> <p>12 have alleged in your first amended complaint?</p> <p>13 ATTORNEY BRUSTEIN: Objection.</p> <p>14 A. I don't understand the question.</p> <p>15 Q. Sure. You have said -- you say</p> <p>16 here that you, plaintiffs, and other members</p> <p>17 of the class, have sustained damages and then</p> <p>18 here's what I want to focus on, okay? You say</p> <p>19 "including but not limited to, their no-fault</p> <p>20 separation pay."</p> <p>21</p> <p>22 A. These are attorney verbiage. I</p> <p>23 don't understand what you're asking me.</p> <p>24 Q. Yeah --</p> <p>25 A. That's what I have my attorneys</p>
<p>Page 388</p> <p>1 V. HOLMES</p> <p>2 for, so they could put it in language that you</p> <p>3 guys understand. Okay? I put it in simple</p> <p>4 language. They put it in their sophisticated</p> <p>5 language. What are you asking me?</p> <p>6 Q. Other than no-fault separation pay,</p> <p>7 not receiving --</p> <p>8 A. Other than no-fault -- okay.</p> <p>9 Q. Other than that amount, whatever</p> <p>10 that is, what other damages have you suffered</p> <p>11 as a result of the breach of the EmPact</p> <p>12 agreement that you have alleged in the first</p> <p>13 amended complaint?</p> <p>14 A. I have suffered not being paid --</p> <p>15 ATTORNEY BRUSTEIN: Objection.</p> <p>16 Q. Go ahead. It's okay.</p> <p>17 A. I have suffered not being paid my</p> <p>18 wages. Not contributing to social security.</p> <p>19 Not putting it into my 401(k).</p> <p>20 Q. Okay.</p> <p>21 A. I have suffered. I have been used</p> <p>22 to -- I'm not a person that jumps from job to</p> <p>23 job. I live a normal life. I take care of my</p> <p>24 family. And everything has changed for me. I</p> <p>25 have a family. I have children. I have</p>	<p>Page 389</p> <p>1 V. HOLMES</p> <p>2 grandchildren, just like yourself. I have</p> <p>3 two. And I had a very normal consistent life</p> <p>4 that has been now turned upsidedown.</p> <p>5 Q. I appreciate that, ma'am.</p> <p>6 A. It's not for you to appreciate.</p> <p>7 It's for you to understand. Have some</p> <p>8 empathy, have some compassion, that I'm not</p> <p>9 here asking for the billions of dollars that</p> <p>10 Ty Warner or the Four Seasons has. All I'm</p> <p>11 asking is for what I am entitled to. What I</p> <p>12 had in the contract.</p> <p>13 All I'm asking is to be recognized</p> <p>14 for everything that I did while I was in the</p> <p>15 company. I went above and beyond, and I did</p> <p>16 things that I didn't even get paid for. I was</p> <p>17 a model employee. And I'm not asking for a</p> <p>18 lot. And I can't understand why some people</p> <p>19 got paid, others didn't. Some people got</p> <p>20 severance, some people are continuously</p> <p>21 getting severance. Some people -- I don't</p> <p>22 understand the formula, what's going on in the</p> <p>23 hotel. And yes, I'm permanently laid off. I</p> <p>24 haven't received any money. You keep saying</p> <p>25 would you give up this, would you do that.</p>

<p>Page 390</p> <p>1 V. HOLMES</p> <p>2 Nothing has been said as to when I'm going</p> <p>3 back. I can permanently be furloughed? Who</p> <p>4 can permanently be furloughed? That doesn't</p> <p>5 make sense.</p> <p>6 Q. I'm not trying to step on your</p> <p>7 answer, ma'am. I understand. Do you want to</p> <p>8 be compensated in this lawsuit for all of the</p> <p>9 things that you just described?</p> <p>10 A. Yes.</p> <p>11 ATTORNEY BOLAND: Okay. I have</p> <p>12 nothing further.</p> <p>13 ATTORNEY BRUSTEIN: Okay.</p> <p>14 THE COURT REPORTER: Any questions,</p> <p>15 counsel?</p> <p>16 ATTORNEY BRUSTEIN: I don't know,</p> <p>17 Paul, do you have any questions?</p> <p>18 ATTORNEY WAGNER: None for me,</p> <p>19 thank you.</p> <p>20 ATTORNEY BRUSTEIN: Can we just</p> <p>21 take few minutes, two-minute break?</p> <p>22 ATTORNEY BOLAND: Yes, sure.</p> <p>23 ---</p> <p>24 (Recess from 6:24 to 6:32.)</p> <p>25 ---</p>	<p>Page 391</p> <p>1 V. HOLMES</p> <p>2 ATTORNEY BRUSTEIN: So we have no</p> <p>3 questions. We're just going to reserve</p> <p>4 our right to --</p> <p>5 ATTORNEY BOLAND: Reserve</p> <p>6 signature?</p> <p>7 ATTORNEY BRUSTEIN: Yes. And to</p> <p>8 review.</p> <p>9 ATTORNEY BOLAND: Okay. Thank you.</p> <p>10 ---</p> <p>11 (Time noted: 6:33 p.m. EDT)</p> <p>12</p> <p>13 _____</p> <p>14 VIVIAN HOLMES</p> <p>15</p> <p>16 Sworn and subscribed to before</p> <p>17 me this _____ day</p> <p>18 of _____, 2023,</p> <p>19 in the jurisdiction aforesaid.</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 392</p> <p>1</p> <p>2 CERTIFICATE</p> <p>3 STATE OF NEW YORK)</p> <p>4 COUNTY OF NEW YORK)</p> <p>5 I, FRANK J. BAS, a Certified</p> <p>6 Shorthand Reporter and Notary Public within</p> <p>7 and for the State of New York, do hereby</p> <p>8 certify:</p> <p>9 That the witness whose testimony is</p> <p>10 hereinbefore set forth, was duly sworn by me</p> <p>11 and that such testimony given by the witness</p> <p>12 was taken down stenographically by me and then</p> <p>13 transcribed.</p> <p>14 I further certify that I am not</p> <p>15 related by blood or marriage to any of the</p> <p>16 parties in this matter and that I am in no way</p> <p>17 interested in the outcome of this matter.</p> <p>18 That any copy of this transcript</p> <p>19 obtained from a source other than the court</p> <p>20 reporting firm, including from co-counsel, is</p> <p>21 uncertified and may not be used at trial.</p> <p>22 IN WITNESS WHEREOF, I have hereunto</p> <p>23 set my hand this 11th day of April, 2023.</p> <p>24</p> <p>25 _____</p> <p>FRANK J. BAS, RPR, CRR</p>	<p>Page 393</p> <p>1</p> <p>2 ----- I N D E X -----</p> <p>3 WITNESS EXAMINATION BY PAGE</p> <p>4 VIVIAN HOLMES MR. BOLAND 6</p> <p>5 ----- EXHIBITS -----</p> <p>6 (Exhibits retained by Freeborn & Peters.)</p> <p>7 DEFENDANTS' PAGE</p> <p>8 Defendants' Exhibit 1, Amended 8</p> <p>9 Notice of Deposition</p> <p>10 Defendants' Exhibit 2, amended 10</p> <p>11 notice</p> <p>12 Defendants' Exhibit 3, LinkedIn 23</p> <p>13 profile</p> <p>14 Defendants' Exhibit 4, LinkedIn 27</p> <p>15 document</p> <p>16 Defendants' Exhibit 5, Complaint 30</p> <p>17 Defendants' Exhibit 6, First 33</p> <p>18 Amended Complaint</p> <p>19 Defendants' Exhibit 7, Notice of 66</p> <p>20 Motion to Compel Arbitration and</p> <p>21 Dismiss Class Claims and Stay</p> <p>22 Action, Memorandum of Law in</p> <p>23 Support</p> <p>24 Defendants' Exhibit 8, Declaration 69</p> <p>25 of Cathy Hwang</p> <p>Defendants' Exhibit 9, Memorandum 71</p> <p>of Law in Opposition to Defendants'</p> <p>Motion to Compel Arbitration,</p> <p>Dismiss Class Claims, and Stay</p> <p>Action</p> <p>Defendants' Exhibit 10, Declaration 75</p> <p>of Evan Brustein</p>

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3 WITNESS ERRATA SHEET
4 Case Name: Selena Staley, et al v FSR
International Hotels, et al
5 Dep. Date: March 30, 2023
Deponent: Vivian Holmes

6 Pg. Ln. Now Reads Should Read Reason
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22 Signature of Deponent

23 SUBSCRIBED AND SWORN TO BEFORE ME
24 THIS ___ DAY OF ___, 2023.

25 (NOTARY PUBLIC) MY COMMISSION EXPIRES:

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